Writ Petition no. 4 of 2012

The Goa Foundation

...Petitioner

Goa State Pollution Board; The Chief Wildlife Warden; State of Goa through its Chief Secretary; Union Of India through its Secretary, Ministry of Environment and forests; M/s Bandekar Bros Pvt. Ltd.

...Respondents

Issue:

The petition is filed to challenge the revocation of the suspension order issued by the Goa State Pollution Control Board to the mining lease of Respondent 5 at Pale Village, Bicholim taluka, Goa issued under the Air Act 1981 and Water Act 1974. As a result of the revocation order, mining has resumed on the lease which is within 10 km of the boundaries of the Bondla and Madei wildlife sanctuaries. The revocation order is contrary to the decision/resolution of the Board , hence it cannot be sustained.

The mining lease of the respondent was issued a wildlife clearance by the Chief Wildlife Warden of the State, pursuant to which the Consent to Operate was granted. The Ministry of Environment and Forests objected to the grant of NOC on the grounds that the clearance was not in accordance with the order of the Supreme Court of India in writ petition no 460 of 2004. As a result the wildlife clearance was cancelled Dy Conservator of Forests/CWLW. Pursuant to the cancellation order and in light of the resolution of the Board, the Board by an order dated 4.10.2011 directed the Resp. 5 to suspend all mining operations till such time it was able to produce a valid approval from the CWLW.

The Supreme Court in Writ Petition No 460/2004 filed by the petition, passed an order that requires all mining leases and other projects which were given environment clearance to get NOC from the Standing Committee of the National Board of Wildlife. The Respondent no 5 has been issued notice by the Honourable High Court in PIL WP no. 31/2011 for the production of ore in excess of the limits laid down under the Environment Protection Act 1986.

After receiving the orders withdrawing the wildlife clearance/ suspending mining operations, Respondent 5 filed a writ petition No.633/2011 challenging the aforesaid withdrawal/suspension orders. The petition was disposed of by Order of the court on 22.11.2011, which records the statement of the Advocate General that the order dated 23.09.2011 shall be withdrawn and that upon withdrawal of the order the Board shall pass appropriate orders.

ANNEXURE 12

GOVERNMENT OF GOA
Deputy Collector/sub-Division Office,
Mapusa-Goa

FORM OF PERMISSION

No.smap29122008/7183 Date of Issue: - 29 Dec-2008

Permission is hereby granted under Rule 5 (i) of the Noise Pollution **(Regulation & Control)** Rule to Shri. Lyndon Alves {full address) r/o Altinho, Nagali Hills, Dona Paula, to use **HF Music** system **D.J.** recorded Address System for the Sun Burn Festival private function subject to following conditions;-

1. the Loud Speakers / **Box** Type Speakers." Public Address System shall be used **at** property located *at* ***Vadi,*** Cadolim-: **in** *Survey* No.—131/l on 29/12/2008 from **15.00 hrs. to** 22.00 hrs:

2. the Ambient Air **Quality** shall not exceed more than 55 **dB(A)** during the period **of use of**
the *Loud Speakers /Public* Address *System in the residential area.*

3. The capacity of amplifier used shall not exceed the prescribed limits **of noise levels.**

4. The peripheral noise level of the Loud Speakers / Box Type Speakers /Public Address System shall not exceed by more than 55dB (A.) than the Ambient Air Quality Standard or as
specified for the are?! in which it is used at. the boundary of the private place,

5. Necessary permission from the competent authority to use the venue and to stage the open air programs *should be obtained separately.*

6. The timings and the condition given as above should **be** observed strictly failing which the
Permission stands automatically terminated and the police are free to take action as per **law in** force.

7. No abusive, offensive **or** obscene announcements should be made.

8. The use of fireworks or firecrackers shall not be permitted between 10:00 p,m. & 06:00 a.m.

9. Discotheques must compulsorily install Double Door System.

10. Where P. A System (Funnel Speakers) are used, the placement of the horn speakers must be such that these face the intended area and at an angle towards the ground to reach the furthest point (blanking out).

11. At no time should the horn speakers face away from the. venue.

Without waiting for the order from the CWLW, who is the statutory authority under the Wildlife Protection Act 1972 withdrawing his cancellation order and thereby restoring the wildlife clearance, the Board unilaterally revoked its suspension order dated 29.11.2011. The wildlife NOC stands cancelled but the Board allowed the mine to operate. The petitioner applied under the RTI Act on 8.12.2011 for a copy of the CWLW withdrawing his cancellation order. The Board was unable to produce the order. It was confirmed that no order of such nature existed as the petitioner was informed by the PIO of the forest department of the same.

The petitioner submits that the Board's revocation order dated 29.11.2011 is contrary to the resolution of the Board and cannot be sustained. It is also contrary to the Environment Clearance which requires clearance under the Wildlife Protection Act. It is also not in accordance with the statement made by the Advocate General before the Court on 17.11.2011. Thus the order is liable to be quashed and set aside.

The reliefs prayed for are as follows:

1. For a writ or order in the nature of a writ quashing the revocation order of the Respondent No.1 dated 29.11.2011

The interim direction prayed for are as follows:

1. An order staying the mining operations on the mining lease of the Respondent no. 5
2. For an ad interim order in terms of the prayer (1)
3. Any other reliefs the Court may see fit to grant.
4. For the costs of this PIL.

ANNEXURE II

Sunburn show stopped for playing music beyond set norms

NT NETWORK

PANAJI — Two days after permitting the organizers of the Sunburn to hold the musical extravaganza at Candolim the state authorities on Sunday evening stopped the show midway as the organisers contravened the condition with regards to playing music beyond the prescribed norms.

The state authorities had issued the licence to the organisers laying down strict conditions including the norms with regards to sound. The whole event was being strictly monitored by state officials.

According to sources in the government, the officials present at the venue noted that the sound of music played by the performers was beyond the prescribed limit and accordingly the Goa State Pollution Control Board was asked to verify the same and it was noted that the music it exceeded the prescribed limit.

Accordingly the authorities on Sunday descended on the venue at around 8 p.m. and asked the organisers to stop the event that was underway as they had contravened the conditions laid in the licence.

A senior government official told The Navhind Times that as stipulated in the licence that any contravention of the conditions would amount to withdrawal and revocation of the licence and as such the licence for the event stands cancelled and that it would not be allowed to be held on Monday, which happens to be the last day of the three day event.

Sunburn stopped for noise pollution

HERALD REPORTER.
PANJIM DEC 28

Asia's biggest musical festival Sunburn was stopped mid way today for violating noise pollution norms.

The festival which is underway at Candolim had abrupt ending when the Goa State Pollution Control Board (GSPCB) objected to the sound levels of the festival.

"The festival was stopped at around 8.15 pm based on GSPCB report which cited violation of noise pollution levels" North Goa Additional Collector Swapnil Nail told Herald.

He said "As of now, the festival will not happen tomorrow."

Sources close to Herald said that some GSPCB members residing in the area earlier in the day complained of the noise pollution.

The Sunburn after a week of flip flops and the police turning a nelsons eye to the security, secured permission for the event.

A question mark was raised on the event following the State government's decision to ban all beach parties.

Earlier, the Candolim residents too complained of the "ill-effects" of the festival and shot letters to North Goa Collector, GSPCB Member Secretary and North Goa Superintendent of police, not to allow the festival, which is understood to have had good political backing.

The Sunburn festival, according to the organisers, is dedicated to the promotion of peace and global harmony, a theme which was expected to get public sympathy in view of the recent terror attack in Mumbai.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Petitioner

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Fereira, Asst. Solicitor General for respondents No.1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents No. 3 to 5.
Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 17th November, 2011

P.C.:-

An affidavit filed on behalf of respondents No.1 and 2 is taken on record. An affidavit filed on behalf of the petitioners is also taken on record.

2. Mr. Kantak, the learned Advocate General appearing for respondents No.3 to 6 states that the order dated 23/09/3022 which is impugned in this writ petition shall be withdrawn. He further states that upon withdrawal of the said order, respondent No.6 shall pass appropriate orders, within a period of one week. In view of the statement made by the learned Advocate General, Mr. Coelho Pereira, the learned Senior Advocate appearing for the petitioners seeks leave to withdraw the petition. He further seeks liberty to file

5. Arundhati Roy, Delhi, India

Arundhati Roy has been asked to prepare a paper for presentation at the conference on the subject of "The University as an Anchor of Modern Ideologies." We would be keen to hear her on the specific issues of the corporatisation of today's academic world, the recruitment of young people through corporate controlled education for personal and system goals destructive of social needs and the continuing gaze towards the West for all our ideas and sciences. However, she has also been kept free to respond to these themes and to either substitute or rework them, provided the changes fall within the general rubric of "decolonizing our universiies."

6. Boaventura De Souza Santos, Portugal

He has been invited to prepare a paper for presentation at the conference on the subject of "Epistemologies of the South." This most recent volume of his is only available at the moment in Portuguese. This would be a good opportunity to introduce its themes to the conference and share its concerns with a array of "decolonized" scholars. We also have a session on Ethnocentrism and the Law. Since he has written on the sociology of law and related themes, we would also welcome him to join that discussion as well.

7. Peter Ronny De Souza, Shimla, India

He has been invited to prepare a paper for presentation at the conference on the subject of "General Outline for a Non-Eurocentric Course in Political Science."

8. Mahmood Mamdani, Kampala, Uganda

He has been asked to speak either on a specific discipline (like sociology) and recommend an outline for teaching a course on sociology that is non-Eurocentric in essentials, or he can provide an overall critique of academia as it is found in our universities today and relate this picture to prevalent knowledge systems in African society.

9. Martin Khor Kok Peng

Martin has been asked to prepare a paper for presentation at the conference on the subject of an "Outline of a Non-Eurocentric Curriculum for Economics Teaching."

appropriate proceedings.

3. In view of the above, the writ petition is allowed to be withdrawn, with liberty as prayed. All contentions of the petitioners in this petition are kept open.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

10. C K Raju

Raju has been asked to prepare a paper for presentation at the conference on the subject of "The Need to Teach Science and Math without Eurocentric Prejudices." He has done considerable work on these issues. Now we are asking him to first provide a critique of how Eurocentrism and prejudices associated with it have distorted our understanding of the development of math and sciences and second, how it is possible to design academic courses in which the contributions of Western scientists are put in proper perspective.

11. Shad Faruqi

Faruqi has been requested to prepare a paper for presentation at the conference on the subject of "Legal Studies Outside a Eurocentric Framework." This is a broad enough title for him to develop his most recent paper on legal education, expand its coverage to other countries besides Malaysia, focus more on teaching and course aspects, within the over context of European law becoming more and more irrelevant and inappropriate for the resolution of our conflicts.

12. Farid Seyed Alatas

We have asked him to prepare a paper for presentation at the conference on the subject of "Course Outline for a non-Eurocentric Sociology." This may be a little more challenging than his earlier presentation to Multiversity or the themes discussed in "Alternative Discourses". It may also be a good occasion to review all the responses to AD since it is six years since the book was published.

13. Mani Shankar Aiyar

He is one of the few politicians the Global South has who has consistently taken political stands against hegemonies. His work to establish the Indo-Iranian pipeline is well known to all of us. We do not want to burden him with a specific topic. Suffice it to say it should relate to university education but it could also relate to political hegemony, its overarching nature, how millions must suffer under it, and what we can do about it in the wake of enormous uprisings in various parts of the world.

14. Vinay Lal

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 1022 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. V. Braganza, Advocate for the applicant.

Mr. C. A. Ferreira, Assistant Solicitor General for respondent nos. 1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Additional Government Advocate for respondent nos. 3 to 5.

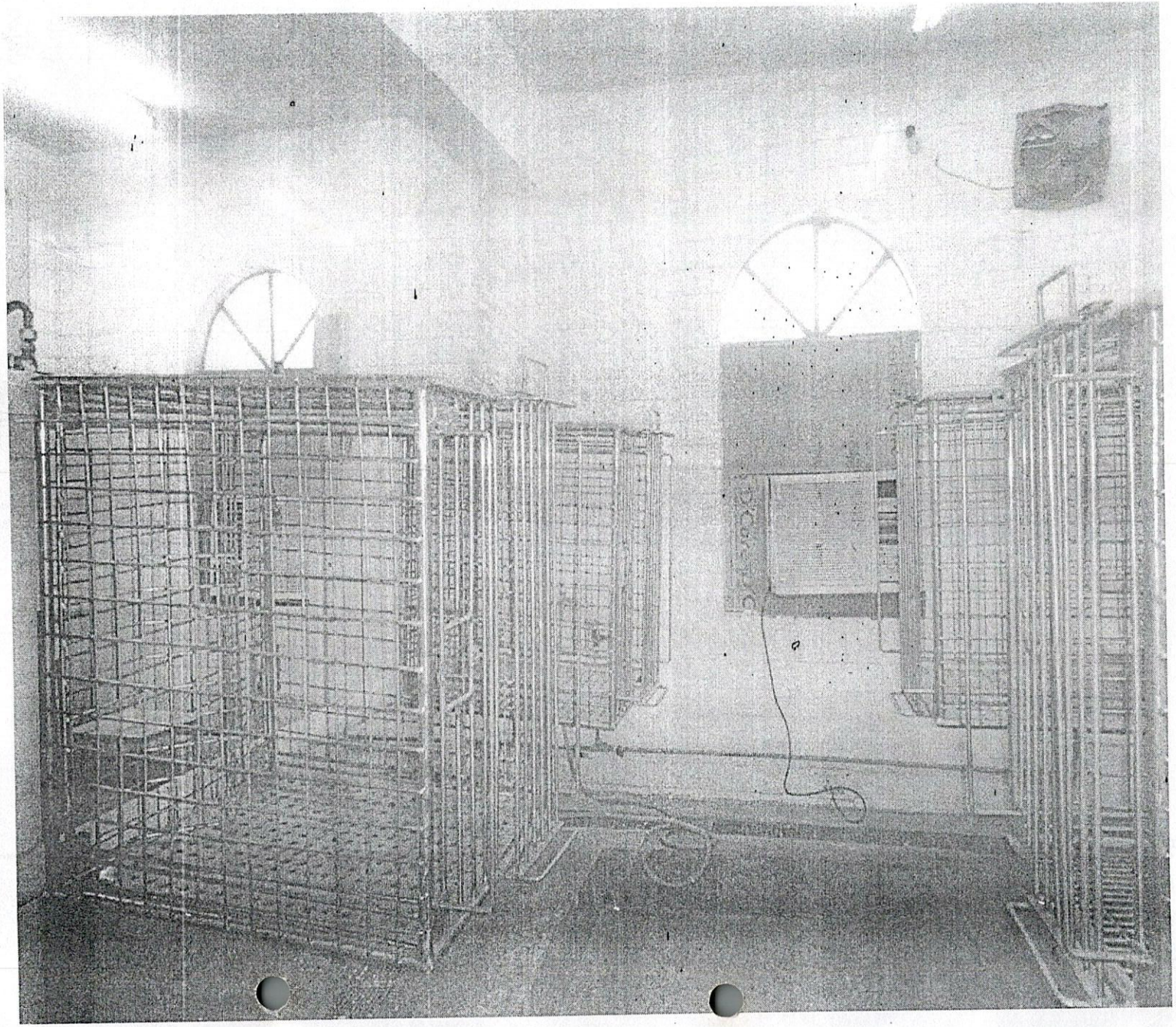
Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 22nd November, 2011

P.C.

Heard Mr. J. E. Coelho Pereira, learned Senior Advocate for the applicant, Mr. C. A. Ferreira, learned Assistant Solicitor General for respondent nos. 1 and 2 and Mr. S. S. Kantak, learned Advocate General for respondent nos. 3 to 5.

2. By this application, the applicant seeks correction of order dated 17.11.2011. In para 2 at lines 2 and 3 instead of order dated 23.9.2011 which is impugned in this Writ petition shall stand withdrawn, it is mentioned that order dated 23.9.3022 which is



impugned in this Writ petition shall be withdrawn.This is not disputed by Mr. C. A. Ferriera, learned Assistant Solicitor General and Mr. S. S. Kantak, learned Advocate General. Therefore, order dated 17.11.2011 stands modified accordingly.

3. Applicant to act on the duly authenticated copy of this order.

A. P. LAVANDE, J.

U. V. BAKRE, J.

vn

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 4 OF 2012

GOA FOUNDATION, THROUGH ITS
SECRETARY DR. CLAUDE ALVARES, ... Petitioner

Versus

GOA STATE POLLUTION CONTROL BOARD
THROUGH ITS MEMBER SECRETARY, ... Respondent

Ms Norma Alvares, Advocate for the petitioner.
Mr. A. N. S. Nadkarni, Advocate General with Mr. J. Godinho, Advocate for respondent no.1.
Mr. A. N. S. Nadkarni, Advocate General with Mr.D. Lawande, Government Advocate for respondents no. 2 and 3.
Mr. M. Amonkar, Central Government Standing Counsel for respondent no. 4.
Mr. J. E. Coelho Pereira, Senior Advocate with Mr. S. Karpe, Advocate for respondent no. 5.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 24th July, 2012

P.C.

Mr. A. N. S. Nadkarni, learned Advocate General appearing on behalf of respondents no. 2 and 3 submits that Chief Wild Life Warden shall pass an order within a period of three weeks and furnish a copy of the same to the learned Advocate for the petitioner. Statement is accepted.

2. Stand over to 21.8.2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

vn

IN THE HIGH COURT OF BOMBAY AT GOA

Misc. Civil Application No._____ of 2012

In

Writ Petition No.343 of 2002

The Goa Foundation and anr., Petitioners

Versus

State of Goa and ors. Respondents

Application for Stay

1. The present application is being filed for ~~total restraint on~~ stay of ~~of~~ mining operations on mining lease with T.C. No. 19/54 which falls in Tudou village, Sanguem taluka. The application is being filed as mini for compliance with the order of the Supreme Court of India dated 4.8.2006 in W.P (C) No 202 of 1995. Copy of the order is annexed as ***Exhibit A*** to this application.

2. The main petition is pending final hearing. It has been adjourned sine die as two of the issues raised in the petition are presently before the Hon'ble Supreme Court.

3. The first deals with the issue of mining leases operating within 10 km of the boundaries of national parks and sanctuaries. The issue is before the Supreme Court in W.P 406/2004 and implementation of its interim order is before this ~~High~~ Hon'ble High Court in P.I.L. Writ Petition No. 27/2011.

Both these issues are under the consideration of the Hon'ble Supreme Court in WP 406/2004 and also in other petitions concerning protection of forests & wildlife notably ~~including~~ WP 202/1995.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 978 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

THE GOA FOUNDATION THROUGH ITS SECRETARY, DR. CLAUDE ALVARES., ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Ms. Norma Alvares, Advocate for the applicant.
Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Fereira, Asst. Solicitor General for respondents No.1 and 2.
Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents No. 3 to 5.
Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 17th November, 2011

P.C.:-

In view of the disposal of Writ Petition No.633 of 2011, the application stand disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

Orders:

23rd November 2009: respondent no.8 (m/s pinky shipyard) has to take permission for any construction activity from High courts

4th January 2011: reports from NIO requested

15th February 2011: reports expected within 2 weeks

29th march 2011: GCZMA deliberated on NIO report on impacts on costal eco system and the approval granted by GCZMA for construction of the shipyard and training institution survey No. 153/1 of Chincalim village dated 03/03/2008 shall be held in abeyance and shall be decided pending the clarifications/ reply from the NIO on protective conservation measures/ restrictions practices to be adopted.

GCZMA shall upon taking the decisions furnish a copy to all parties and affording m/s Pinky shipyard to be heard .the writ petition stands disposed of with the parties to adopt proceedings in accordance with the law. Rule is made absolute accordingly.

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

Writ Petitioner No. 633/2011

Bandekar Brothers Pvt. Ltd. & Anr. ... Petitioners

V/s

Union of India & ors. ... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NOS. 1 AND 2

I, Ms. Prakriti Srivastava, age 48 years , daughter of Shri T.B.Srivastava , Indian National, Deputy Inspector General (WL) of the Ministry of Environment and Forests, (Wildlife Division), Government of India, having office at Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi 110 003, do solemnly state on oath and affirm as under:-

1. I am duly authorized to swear the Affidavit on behalf of Respondent No. 1.

2. I am also swearing the Affidavit on behalf of myself who has been impleaded as Respondent No.2 herein. The Affidavit is based on records available in my office. Any averment not controverted nor denied ought not to be construed as having been admitted. I crave leave to file a detailed Affidavit in the event the Petition is admitted.

3. I submit that by Order dated 04/12/2006 passed in Writ Petition No.460/2004 (**Annexure I**), the Hon'ble Supreme Court passed an interim order wherein it has been acknowledged that the State of Goa had submitted a proposal and it was further recorded that the same does not seem to be in full conformity with what was sought for in the Ministry's letter dated 27/05/2005 and hence the Hon'ble Supreme Court, inter alia directed as follows:-

> "... the Ministry directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27/05/2005. The State of Goa also is directed to give appropriate proposal in addition to what is said to have already been sent to the Central Government..."

4. Before proceeding further, to set out relevant facts, it is material to note that the Petitioners themselves have annexed copy of the Order dated 04/12/2006

passed in Writ Petition No.460/2004 by the Hon'ble Supreme Court in which order itself it is clear that the Hon'ble Supreme Court is seized of the matter relating to the State Government having to notify the area within 10 kms. of boundaries of National Parks and Sanctuaries as eco-sensitive zones. I respectfully submit that once the Hon'ble Supreme Court is seized of the matter it may not be proper nor desirable for this Hon'ble Court to entertain the present petition and grant any relief in this regard and the Petitioners ought to be relegated to approach the Hon'ble Supreme Court if so advised, whether the same relates to the competence of the Standing Committee of the National Board for Wildlife or otherwise. On this count also the Petition ought not to be entertained..

5. In the said order of the Hon'ble Supreme Court it has also been directed by the Supreme Court as follows:-

> "The MOEF would also refer to the Standing Committee of the National Board for Wildlife under Sections 5(b) and 5(c)(iii) of the Wildlife (Protection) Act, the cases where environment clearance has already been granted where activities are within 10 km. zone."

6. It is therefore clear from a perusal of the above order that as an interim measure, the Hon'ble Supreme Court has directed the Standing Committee to consider the cases where environmental clearance is already granted where activities are within 10 km. zone.

NOTARY J. S. CHAWLA NOT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

7. It could therefore be seen that the recommendations not being in consonance with the requirement, in terms of the directions of the Hon'ble Supreme Court, all such cases having any development in the 10 km. zone pending the final notification, is required to be placed before the National Board for Wild Life as directed by the Hon'ble Supreme Court.

8. The said mine site is within 10 kms, from the boundary of a Protected Area in Goa and if it is allowed for non forestry activities, it can only be done after obtaining due approval from the Standing Committee of the National Board for Wildlife, Forest clearance, Environment clearance and from the Hon'ble Supreme Court.

P. Kumar

9. Human Wildlife conflict issues are more prevalent in areas that are fragmented. Wildlife tends to be prone to be more hostile towards human in such areas as their habitats are destroyed. Such human wildlife conflict situations are not only harmful to wild animals but more so to humans as it even leads to human deaths and crop damages. Damages to humans and their crops, due to elephant raids, human deaths and cattle lifting by leopards etc. are few striking examples of such a situation which occur due to habitat fragmentations. Mining operations, including transportation and movement of vehicles will have significant impact on wildlife.

10. The proponents shall be directed to take mandatory clearance from statutory authority before commencing such mining activities that are within 10 km from the boundaries of National Park and Wild Life Sanctuary which is a mandatory requirement. In order to place a proposal before the Standing Committee of National Board for Wildlife, the applicant is required to complete the forms prescribed by the Ministry of Environment and Forest (available on website of MoEF http:/ /envfor.nic.in) and submit it to the concerned Park Manager, who in turn would submit to the concerned Chief Wildlife Warden. The Chief Wildlife Warden would, after obtaining the recommendation of the State Board for Wildlife would submit the proposal to the Member Secretary National Board for Wildlife through the State Government.

NOTARY
J. S. CHAWLA
NCT OF DELHI
REGN. NO. 8275
GOVT. OF INDIA

11. Further, the Ministry of Environment and Forest has subsequently also issued several Office Memorandam (**Annexure II**) to the Forest Department of Goa detailing the procedure to be followed in regard to grant of environment clearance and making it explicitly clear that proposals within 10 km of Wildlife Sanctuaries, National Park must first procure clearance from the Standing Committee of NBWL. The Chief Wildlife Warden and the functionaries of the Forest Department are also very much aware of the said order.

12. It has now come to the notice of this office that in the past few months several approvals were suddenly granted to mining operators by the Chief Wildlife Warden without awaiting the approval from the Standing Committee of the National Board of Wildlife. A letter dated 28/03/2011

P. Divakar

from the Asst. Conservator of Forests (Legal) to the Under Secretary (Forest) makes this amply clear. **(Annexure III).**

13. The Chief Wildlife Warden is bound to comply with the interim order dated 4/12/2006, passed by the Hon'ble Supreme Court in the same petition and was required to direct its applicants to seek the mandatory clearances from the Standing Committee of the NBWL.

14. The Chief Wildlife Warden is an officer authorized to take all measures for protection and wildlife and its habitat in accordance with the provisions of the WildLife (Protection) Act, 1972. In the instant case, the Chief Wildlife Warden can only issue No Objection Certificate for mining within 10 km from boundaries of National Parks and Wildlife Sanctuaries after a recommendation of the Standing Committee of NBWL and other statutory clearances. Given the fact that Eco-Sensitive Zones are yet to be notified in the State of Goa, the extent of Eco-Sensitive Zones is to be taken as 10 km from boundaries of National Parks and Wildlife Sanctuaries till such time the Eco-Sensitive Zones are notified.

15. The Hon'ble Supreme Court has been considering the impact of several industrial activities on Wildlife Sanctuaries. Issue of Eco-Sensitive Zone is before the Apex Court in Writ Petition No.460/2004. In the interim, Hon'ble Supreme Court issued a orders in respect of declaration of Eco-Sensitive Zone surrounding wildlife sanctuaries.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

16. It is once again submitted that the order of the Supreme Court is to be followed in letter and spirit. In view of the above submissions, it is prayed before this Hon'ble Court that the petitioner be directed to seek all Statutory Clearance before commencing any mining activities as allowing mining and other activities without consideration of the impact of these activities on Eco-sensitive zones is bound to be a hazard for Wildlife, which, as it is, is being disturbed and increasing incidence of wildlife entering residential areas is reported.

17. I respectfully state that the Wild Life Warden has powers under the Wild Life Act in terms of Section 33 thereof. Yet, no objection from the Chief

Wild Life Warden is also mandated to be obtained to ensure that due care and protection of the ecology is taken when clearance is given. However, as mentioned above, the NOC of the Chief Wild Life Warden by itself is not sufficient for a clearance within the 10 km. zone from the boundary of a Wild Life Sanctuary either under the Wild Life Act or as per directions of the Hon'ble Supreme Court and hence even if any NOC has been granted by the Chief Wild Life Warden, this itself would not be sufficient nor be constituted as a clearance required in terms of the Wild Life Act and/or the terms of the Hon'ble Supreme Court.

18. In view of the above, the Petition ought to be rejected.

19. I say that the Annexures hereto are true copies of the originals.

20. I say that the factual contents of the above paragraphs are based on official records to which I have access and I believe the same to be true.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 5275 GOVT. OF INDIA

Solemnly affirmed on this 11th day of November, 2011 at New-Delhi.

Deponent

(PRAKRITI SRIVASTAVA)
Dy. Inspector General (WL)
Min. of Env. & Forests
Govt. of India, New Delhi

Identified by:-

I Identify the deponent who has Signed/put T.I. in my Presence

RAVI KUMAR
D/2492/10

ATTESTED

NOTARY DELHI

Register Entry No. 1155 dated 11/11/2011

11 NOV 2011

ANNEXURE I

ITEM NO.50 COURT NO.1 SECTION
PIL

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 460 OF 2004

GOA FOUNDATION
Petitioner(s)

VERSUS

UNION OF INDIA
Respondent(s)

(With appln(s) for stay and c/delay in filing affidavit and directions and intervention and impleadment and modification and ad-interim ex-parte direction/clarification and seeking permission to bring additional document on record and office report)

WITH W.P.(C) NO. 91 of 2005

(With appln. for interim directions and office report)

Date: 04/12/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s)
Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat,Adv.
Mr. S.K. Dholakia, Sr.Adv.
Dr. A. Francis Julian, Adv.
Mr. Sumit Kumar, Adv.
Mr. Sanjeev K. Trivedi, Adv.
Mr. Anil Jain, Adv.
Mr. K. Arunesh, Adv.
for M/S Arputham,Aruna & Co., Advs.

For Applicants -Salgaocar Bros.(P) Ltd.:
Mr. K.K. Venugopal, Sr.Adv.
Mr. Pratap Venugopal, Adv.
Mr. E. Venu Kumar, Adv.
Mr. Harshad Hameed, Adv.

for M/s. K.J. John & Co., Advs.

Mr. A.N.S. Nadkarni, Adv.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

Mr. Pratap Venugopal, Adv.
Mr. Malkarnekar, Adv.
Mr. Harshad Hameed, Adv.
Mr. E.Venu Kumar, Adv.
for M/s. KJ John & Co., Advs.

For Intervenor: Mr. Rishi Maheshwari, Adv.

Ms. Anne Mathew, Adv.
Ms. Shally b. Maheshwari, Adv.

For NATCO Pharma: Mr. S.Chandra Shekhar, Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr.Adv.
Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Adv.
Mr. Yashraj Deora, Adv.
Mr. Mannoj Mehta, Adv.

for M/s. K.L. Mehta & Co., Advs.

Union of India: Mr. G.E. Vahanvati, S.G.
Mr. Vikas Sharma, Adv.
Mr. Shilpa Singh, Adv.
Mr. R.C.Kathiya, Adv.
Mrs. Anil Katiyar, Adv.

For Haryana: Mr. Ajay Siwach, AAG.
Mr. Manjit Singh, AAG.
Mr. T.V. George, Adv.
Mr. Bharat Sangal, Adv.
Mr. R.R.Kumar, Adv.
Mr. Samyadip Chatterji, Adv.
Ms. Suchita Sharma, Adv.

For TATA Steel: Mr. Gopal Jain, Adv.
Mr. R.N. Rakanjawala, Adv.
Mrs. Nandini Gore, Adv.
Mr. Manik Karanjawala, Adv.

For Goa SPCB &
Sec.Env., St.of Goa: Mr. Bhavanishankar V. Gadnis, Adv.
Mrs. B. Sunita Rao, Adv.
Mr. Aruneshwar Gupta, Adv.
M/s. Lawyer's Knit & Co., Advs.
Mr. Anip Sachthey ,Adv.
Mr. B. Partha Sarthy ,Adv.
Mr. M.K. Dua ,Adv.
M/S Gagrat & Co. ,Adv.
Mr. Sunil Kumar Jain ,Adv.
Mr. Rakesh K. Sharma ,Adv.
Ms. Praveena Gautam ,Adv.
Mr. Nikhil Nayyar ,Adv.
Mrs. Prabha Swami ,Adv.

NOTARY
J. S. CHAWLA
NOT OF DELHI
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(M V. Karkl
Conservator of Forests

UPON hearing counsel the Court made the following

O R D E R

The order dated 16th October, 2006 refers to a letter dated 27th May, 2005 which was addressed by the Ministry of Environment and Forests (MoEF) to the Chief Wildlife Wardens of all States/Union Territories requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. The order passed on that date was that MoEF shall file an affidavit stating whether the proposals received pursuant to the letter of 27th May, 2005 have been referred to the Standing Committee of National Board for Wildlife under the Wild Life (Protection) Act, 1972 or not. It was further directed that such of the States/Union Territories who have not responded to the letter dated 27th May, 2005 shall do the needful within four weeks of the communication of the directions of this Court by the Ministry to them.

It seems that despite the letter dated 27th may, 2005 and despite the Ministry having issued reminders and also bringing to the notice of the States/Union Territories the orders of this Court dated 16th October, 2006, the States/Union Territories have not responded. However, we are told that the State of Goa alone has sent the proposal but that too does not appear to be in full conformity with what was sought for in the letter dated 27th May, 2005.

The order earlier passed on 30th January, 2006 refers to the decision which was taken on 21st January, 2002 to notify the areas within 10 km. of the boundaries of national parks and sanctuaries as eco-sensitive areas. The letter dated 27th May, 2005 is a departure from the decision of 21st January, 2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1972.

The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27th May, 2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January, 2002, namely, notification of the areas within 10 km. Of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.

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J. S. CHAWLA
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INDIA

The MoEF would also refer to the Standing Committee of the National Board for Wildlife, under Sections 5(b) and 5(c)(ii) of the Wild Life (Protection)Act,the cases where environment clearance has already been granted where activities are within 10 km. zone.

List the matter after eight weeks.

(N. Annapurna) (V.P. Tyagi)

Court Master Asstt. Registrar

NOTARY
J. S. CHAWLA
NEW DELHI

ANNEXURE II

F.No. 5-3/2007-FC (Pt)

Government of India
Ministry of Environment & Forests
(FC Division)

Paryavaran Bhavan
C.G.O. Complex, Lodi Road
New Delhi 110 510
Dated: 19th August 2010

To

The Principal Secretary (Forests)
All States/UTs

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 – clarification regarding forest areas outside National Park/sanctuary but within 10 km radius from the boundary – reg.

Sir,

The Ministry has been receiving representations from various project proponents and State Government seeking directions/clarifications regarding rules and regulations to be followed for prior approval under section 2 of the Forest (Conservation) Act, 1980 to forest areas outside National Park/sanctuary but within 10 km radius from their boundary.

The matter has been examined in the Ministry in the light of Hon'ble Supreme Court order dated 4th December, 2006 in I.A. No. 460 of 2004, *inter-alia*, directing that all cases where environmental clearance (EC) under EIA Notification, 2006 has been given by the Ministry be put up to the Standing Committee of National Board of Wildlife. Accordingly, the environmental clearances to the projects coming within 10 km from the boundary are being granted with the condition to obtain recommendation of the Standing Committee of National Board of Wildlife as one of the stipulations.

I am further directed to inform that in case of those projects, which require environmental clearance under EIA Notification, 2006 and also involve diversion of forest land for non-forest purposes falling within 10 km of National Park/Sanctuary will have to be placed before the Standing Committee of the National Board of Wild Life as per this Ministries Office memorandum no. J.11013/41/2006-IA .II(I) dated 02.12.2009 (copy enclosed)

NOTARY

In view of the above, I am directed to inform that the decision of the Central Government for prior approval under section 2 of the Forest (Conservation) Act, 1980 will be conveyed to the State/UT Governments with the stipulation that the EIA for the case, wherever required, be placed before the Standing Committee of the NBWL.

Yours faithfully,

Sd/-

(C.D. Singh)
Sr. Assistant Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, All States/UTs
2. The Chief Wildlife Wardens, All States/UTs
3. The Nodal Officer (FCA), O/o the PCCFs, All States/UTs
4. All Regional Offices of this Ministry/RO (HQ), MoEF, New Delhi

---

No. 6-13-(330)-2009-FD/8130 Dated: 17.9.10

Copy forwarded for information and necessary action to

1. The Chief Conservator of Forests, Panaji – Goa
2. The Conservator of Forests (Cons.) Panaji/Wildlife to Eco-Tourism, Panaji
3. The Deputy Conservator of Forests, North, Ponda/South Margao, Wildlife to Eco-Tourism, Panaji /Working Plan Division, Panaji/Planning to Statistics, Panaji/Research to Utlilization, Margao/Social Forestry, Ponda/Soil Conservation, Ponda.
4. A.C.F.(LC) of this office

Sd/-

(D.N.F. Carvalho)
Dy Conservator of Forests

NOTARY
J. S. CHAWLA
NCT OF DELHI
RECN. NO. 5275
INDIA

Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003

F. No.1-9/2007 WL-I (pt)
Dated: 20th May 2011

The Chief Wildlife Warden,
Government of Goa,
Dayanand Samriti Building,
Old Passport Office,
Panaji-403 001.

Sub: Declaration of Eco-sensitive zones around National Parks and Sanctuaries in Goa.

Sir,

Kindly find enclosed copy of a PMO ID no.670/73/C/4/2011-ES.I received from the Director, Prime Minister's Office regarding the issue of revision of the recent National Board for Wildlife order extending the buffer zone outside notified wildlife sanctuaries to 10 km, given the small size of the State.

In this context, reference is invited to the proposals forwarded to the Ministry by the Government of Goa for declaration of eco-sensitive zones around National Parks and Sanctuaries. Since this Ministry has now issued guidelines in this regard on 9th February 2011 (copy enclosed), the above mentioned proposal of Government of Goa may kindly be modified so as to be in consonance with these guidelines. Your kind attention is drawn to Para 6 of the said guidelines wherein it has been provided that a small Committee may be constituted to look into the following matters:-

(i) *Extent of eco-sensitive zones for the Protected Area being considered.*
(ii) *The requirement of such a zone to act as a shock absorber.*
(iii) *To suggest the best methods for management of the eco-sensitive zones, so proposed.*
(iv) *To suggest broad based thematic activities to be included in the Master Plan for the region.*

The above aspect may kindly be kept in view while formulating the proposals for Eco-sensitive zones. Further, while forwarding such proposals to the Ministry, a reference of the outcome of the committee's recommendations that had formed the basis of the proposal, be also explained in the covering letter of the State Government.

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General(WL)
Telefax:011-24360704
E-mail: digwl-mef@nic.in

NOTARY
J. S. CHAWLA
NCT OF DELHI
REGN. NO. 8275

Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003

F. No. 6-69/2011 WL
Dated: 30th May 2011

To
The Chief Wildlife warden
Government of Goa
Panaji.

Sub: Grant of clearance for mining by Bandekar Brothers Pvt. Ltd, Goa within the Eco-Sensitive Zone in Goa.

Sir,

Kindly find enclosed a copy of the letter of the Dy. Conservator of Forests, Government of Goa addressed to M/s Bandekar Brothers Pvt. Ltd, Goa wherein permission for taking up mining activities in Pale village of Bicholim Taluka has been granted. The said permission is in not in conformity with the orders of Hon'ble Supreme Court dated 4th December 2006 in Writ Petition (Civil) No. 460/2006 and therefore, needs to be cancelled.

The competent authority in such cases is the Standing Committee of NBWL and therefore, detailed proposal (10 copies) as per the prescribed proforma available in the web site of the Ministry of Environment and Forests (http://envfor.nic.in), along with clear maps, etc, be submitted to this Ministry, for placing them before the Standing Committee of NBWL.

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General (WL)
Phone no: 011- 24360704
E. Mail: digwl-mef@nic.in

Copy to: The Regional CCF, Ministry of Environment and Forests, Southern Regional Office, Bangalore.

NOTARY
J. S. CHAWLA
NCT OF DELHI
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Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110003

F.No.6-69/2011 WL
Dated : 18th October, 2011

To
The Chief Wildlife Warden
Government of Goa
Panaji.

Sub: Grant of clearance for mining within the Eco-Sensitive Zone in Goa

Sir ,

Kindly refer to this Ministry letter of even no. dated 30th May, 2011.In continuation to the said letter, it is to clarify that the provisions indicated in the guidelines of this Ministry, Orders of Hon'ble Supreme Court are applicable to all such cases of mining which are within 10 Kms from the boundaries of National Parks and Wildlife Sanctuaries. This particular provision has already been indicated in the said letter.

Further, in the above mentioned letter dated 30th May 2011, the mines of M/s Bandekar have been specifically quoted as the Regional Office of Ministry of Environment And Forest, Bangalore, had brought this particular case to the notice of this office. However, it is once again clarified that the provision shall apply to all cases as indicated in Para 1 above .

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General (WL)
Telefax: 011-24360704
E.Mail : digwl-mef@nic.in

Copy to: The Regional CCF, Ministry of Environment and Forests, Southern Regional Office, Bangalore

NOTARY
J. S. CHAWLA
NCT OF DELHI
REGN. NO. 8275
GOVT. OF INDIA

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.
Phone No. 080 25635901
Fax No. 080 25537184

सत्यमेव जयते

No. : EP/12.1/228/2010/9862
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN BANGALORE
दूरभाष :
Telephone :

Dated 29.9.2011

To

The Chief Wildlife Warden and
Additional Principal Chief Conservator of Forests
Forest Department, Government of Goa
Panaji, Goa.

Subject : Grant of clearance for mining by Bandekar Brothers (P) Limited, Goa within the Eco-sensitive Zone in Goa – reg

Reference: This office letter No. EP/12.1/228/GOA/9215 dated 7.6.2011

Sir,

Vide the above referred letter your attention was drawn to Ministry of Environment and Forests letter No. 6-69/2011/WL dated 30.5.2011 and necessary action was requested as per the letter. Your kind attention is also drawn to all other cases where approval of Standing Committee of the National Board for Wild life has not been obtained and are requested to take necessary action in the matter.

(K.S.Reddy)
Chief Conservator of Forests (C)

Copy to Ms. Prakruti. Srivastav, DIG (WL), Ministry of Environment and Forests, Room No. 514, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi-110 003 for information.

(K.S.Reddy)
Chief Conservator of Forests (C)

NOTARY
J. S. CHAWLA
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ANNEXURE III

GOVERNMENT OF GOA
Office of the Addl. Pr. Chief Conservator of Forests
Forest Department
Panaji, Pin 403001.
Ph: - 0832-2224747, 2421414 Fax: - 0832-2224747.

No.6-13-(96)-97-FD/ 387
Dated: 26/04/2011

To,
M/s. N.S. Narvekar,
Bombi Niwas,
Margao – Goa. 403601.

Sub: - Approval of Chief Wildlife Warden for mining as stipulated in Environmental Clearance granted by the Ministry of Environment and Forests, Government of India.

Sir,

This has reference to your application dated 16/09/2009 requesting for approval of the Chief Wildlife Warden for mining in T.C. no. 40/51 of Santona village of Sanguem Taluka as stipulated in the Environmental Clearance granted by the Ministry of Environment and Forests, Government of India vide their letter no. J-11015/101/2005.IA.II (M) dated 14/05/2007. The matter has been examined after the field verification by the Wildlife / Forest officials as per the parameters/criteria indicators considered relevant from the point of wildlife conservation. Since these have not been reported to adversely / negatively impacting upon the wildlife as a consequent of mining operation carried out over the site of the lease, the Chief Wildlife Warden, Goa with the concurrence / approval of the State Government, hereby accords approval to your company / firm for mining in T. C. No. 40/51 only situated at Santona village of Sanguem Taluka subject to the following conditions:

1) The Project Authority shall maintain a layered vegetation cover along the periphery of their lease area so as to act as buffer from the habitation / wildlife area. Forest Department shall provide necessary technical support / guidance in establishing and maintenance of the same.

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2) The Management Plan for conservation of endangered flora and fauna submitted by Project authority should be implement by the Project Authority.

3) Noise level due to mining activity shall be restricted to decibel level fixed so that no disturbance is caused to wild animals. This shall be regularly monitored through agency like Goa State Pollution Control Board.

4) There shall not be any spillage of metallic ore / sewage from the active mining area, which may cause seepage through stream / nallah, which are passing through forest area / sanctuary area.

5) Use of explosives, if any, is to be avoided so as not to cause any disturbance to wildlife in adjoining sanctuary area.

6) Human activities due to operation of mining shall be restricted to optimum level, so as not to cause any disturbances / threat to wild animals.

7) Environmental / ambience quality shall be regulated and monitored from time to time through Goa State Pollution Control Board.

8) The Clearance / permission granted to project proponent on wildlife angle shall be subject to directions / guidelines issued from Ministry of Environment and Forests, Government of India and directions of Higher Courts, if any, related to Wildlife Conservation and their Management.

9) The Project proponent shall get the site specific management / perspective plan in consultation with the Forest / Wildlife authorities of the State Government which should be implemented at the cost of the project authorities towards conservation of flora/ fauna in the surrounds of the project site and Eco-Development activities to be undertaken for promotion of Wildlife Conservation in the area.

10) The permission shall be valid for the same period as EIA clearance granted by the Ministry of Environment and Forests, Government of India.

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11) Department of Forests / Wildlife Government of Goa shall monitor the working and stipulate any other condition if considered necessary from Wildlife / Forest angle.

12) The aforesaid conditions shall be enforced to the full satisfaction of the Chief Wildlife warden, Goa State.

13) Failure to comply with conditions mentioned above may result in the withdrawal of this clearance.

14) The permission is subject to the final outcome/any further order of the decision of the Hon'ble Supreme Court in W. P. No. 460 of 2004.

15) No mining operation should be carried out in any forest area, either private or revenue with out approval from MOEF, GOI.

16) The Chief Wildlife Warden reserves the right to revoke the approval at any time.

Yours faithfully,

(Cedric S. D'Souza)
Dy. Conservator of Forests
Monitoring & Evaluation.

Copy to:

1) The Dy. Conservator of Forests, Wildlife & Eco-Tourism, Junta House, Panaji - Goa.
2) The Dy. Conservator of Forests, South Goa Division, Margao - Goa alongwith the environmental clearance.
3) The Director of Mines, Government of Goa, Panaji - Goa.
4) The Addl. Director(S), Ministry of Environment and Forests, Government of India Paryavaran Bhavan, C. G. O. Complex, Lodi Road, New Delhi.
5) The Chief Conservator of Forests, Regional Office, Ministry of Environment and Forests, Government of India, Bangalore.
6) The Member Secretary, Goa Pollution Control Board, Patto, Panaji - Goa.

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(1) 21/1/2002 – NBWL Resolution, Wildlife Conservation Strategy 2002.
17/3/2005 – NBWL Decision – delineation of eco-sensitive zone wld be site specific
– regulate rather than prohibit
27/5/2005 – MoEF communicate to State Govts.

---

(1) SC Order – precautionary principle as IBWL passed resolution to have 10 kms – ecosensitive zone

(2) 10 kms – eco-sensitive zone
– not a ban on mining
– hence NBWL.
– SC yet to take final decision.

(3) 1 km – has been held as ban on mining.

(4) Goa Govt's proposal prior to 2006 order – not in accordance with ~~At~~ buffer zone requirement
– hence cannot be said that Goa Govt exempt from SC Order dt. 4/12/2006.

(5) Goa Govt's subsequent proposal Yadhuvanshi Report post 2006 order. – also not in accordance
– hence MoEF has asked for revision
– not yet placed/approved by NBWL.
– mining by day / ban at night

(6) MoEF letter.

(7) M.V. Karkhanis Asst. CF letter 28/3/2011.

(8) CWW Clearance – subject to final order.
– how can interim order not apply.

15. **Uniform pay scales for all Ex-Servicemen employed in Department of Sainik Welfare of various States/UTs (Item-III, Para 20)** :- The Member Secretary said that during the 28th meeting of Kendriya Sainik Board, chaired by Hon'ble Raksha Mantri, the large variation in the pay scales of Officers employed in the Rajya and Zila Sainik Boards across the Country were discussed. Hon'ble Raksha Mantri vide DO No. 2(2)XXVIII/KSB/A/520-F/RM dated 03 Feb. 2009 addressed to States have stressed that the pay scale of officials of RSBs/ZSBs needed to be uniform. The Chairman asked the Member Secretary to obtain the pay scales of Secretary, Rajya Sainik Boards from all States. The proposal may then be submitted to Government through Home Department along with the Recruitment Rules for the post of Secretary, Rajya Sainik Board for consideration.

(**Action** : Secretary, DSW/Home Dept)

Item IV : Points from Members

16. There were no points from Members for consideration of the board.

Item V : Conclusion

17. The Chairman thanked all members for attending and actively participating in the meeting. He thanked the Special Invitees from Ministry of Defence, New Delhi for their valuable contribution during the meeting. The meeting thereafter was declared closed.

(1) SC Order – precautionary principle
– 10 kms eco-sensitive zone
– issue not decided
– not a ban on mining (3 ML were approved)
– order to be read as a whole in letter + spirit
+ till issue decided NBWL approval.

(2) Goa Govt's proposal not in accordance with NBWL decision – buffer zone requirement.
Prior to 2006 + Post 2007
Yaduvanshi Report – mining by day / ban at night.
Hence Goa not exempt from SC Order

(3) CCF / Goa Govt well aware of compliance required
- MV Kharkanis letter 28/3/2011
- CCF Order / NOC – final compliance with SC Order
– how can interim order be avoided.

(4) MoEF letters in 2009 + 2010.
Letter of 2011 clarify not only Bandeke but all mines.
CM has issued directions to cancell ML.

(5) Diff bet CWW + NBWL.
NBWL – headed by PM
– 5(b) + (c).
CWW – S. 33. within WLS.

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI.

Writ Petition No.633 of 2011 & M.C.A. No.978 of 2011

Bandekar Brothers Pvt. Ltd
Through its Director
Mr. Suvarn R. Bandekar
and another .... Petitioners

V e r s u s

Union of India Through
The Secretary,
Ministry of Environment and
Forest and 5 others. ..... Respondents

Mr. C. Coelho Pereira, Senior Advocate with Mr. Veldson Braganza, Advocate for the petitioners.

Mr. C.A. Ferreira, Asst. Solicitor General for respondent nos.1 and 2.
Mr. S.S. Kantak, Advocate General with Mr. A. Kamat, Addl. Government Advocate for respondent nos.3 to 5.
Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A.P. Lavande,
U. V. Bakre, JJ
Date:-15th November, 2011.

P.C:

Mr. Coelho Pereira, learned Senior Counsel appearing for the petitioners submits that the order passed by respondent no.5 and the order passed by respondent no.6 suspending the operations are creating serious prejudice and as such, the matter be taken up today.

2. Mr. Ferreira, learned Assistant Solicitor General appearing for respondent nos.1 and 2 submits that he has received a copy of the affidavit-in-reply of respondent

WHEREAS, in light of the aforestated approval of the Chief Wild Life Warden, dated 11/04/2011, the Board had granted your mine unit renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, bearing no. 6/1878/09-PCB/9784 dated 21/04/2011 and the renewal of Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 bearing no. 5/2758/05-PCB/9783 dated 21/04/2011.

WHEREAS, the Board is now in receipt of a copy of a letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 from the Dy. Conservator of Forests, Forest Department, Government of Goa, wherein it is stated that the approval of the Chief Wild Life Warden bearing no. 6/13-(172)-97-FD/161 dated 11/04/201, for mining T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, stands cancelled with immediate effect.

WHEREAS, the Goa State Pollution Control Board at its 101st meeting held on 08/07/2011, had decided as follows;

a. Applications for renewal of Consent to operate as submitted by the Mining units under the Water Act and the Air Act can be considered and granted by the Board subject to the compliance of the pollution control norms. A condition should be incorporated in the Consent as follows:-

> "The mining company should comply with all the conditions laid down in the environment clearance issued by the Ministry of Environment and Forests, Government of India. The mining company should obtain approval from the Chief Wildlife Warden and clearance under the Forest (Conservation) Act, wherever required by the Environmental Clearance of the respective mining units, and submit copies of the same to the Board for records."

b. It is further resolved to issue notice of suspension of mining operations to all mining units who have failed to produce the NOC/approval from the Chief Wildlife Warden and/or permissions under the Forest (Conservation) Act, 1980, as the case may be, till such time as the required documents are produced before the Board.

NOW, THEREFORE, in light of the cancellation of the approval of the Chief Wild Life Warden for mining activity in T.C. no. T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, as conveyed by the Dy. Conservator of Forests, Forest Department, Government of

nos.1 and 2 and he has served copies thereof on the parties to the petition. However, he has not received the original affidavit from Delhi and he will be filing the same in the Court by 16/11/2011. Mr. Ferreira, therefore submits that the matter be taken up on 17/11/2011.

3. This prayer is vehemently opposed by Mr.Coelho Pereira, learned Senior Counsel appearing for the petitioners.

4. Mrs. Alvares, learned counsel has filed application on behalf of Goa Foundation bearing M.C.A no.978/2011 seeking to join the applicant as party respondent in the petition has also filed PIL Writ petition no.27/2011 challenging separate order passed by Respondent no.4 in the present petition and any order passed in the present petition will have a direct bearing on the outcome of the said petition. The said PIL writ petition be taken up along with this writ petition which is fixed on board on 29/11/2011.

5. We are of the considered opinion that the submission made by Mr. Ferreira deserves to be accepted since it is necessary to know the stand taken by respondent no.1 in the matter before any order is passed in the petition. Moreover, any order passed in the present petition will have direct bearing on PIL Writ petition no.27/2011.

6. Accordingly, the writ petition along with the M.C.A. No.978/2011 is fixed for hearing on 17/11/2011. Reply, if any, on behalf of respondent no.1 o be filed by 16/11/2011 and even if the reply is not filed by 16/11/2011, the writ petition and the M.C.A will be taken up for consideration on 17/11/2011.

WHEREAS, in light of the aforestated approval of the Chief Wild Life Warden, dated 11/04/2011, the Board had granted your mine unit renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, bearing no. 6/1878/09-PCB/9784 dated 21/04/2011 and the renewal of Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 bearing no. 5/2758/05-PCB/9783 dated 21/04/2011.

WHEREAS, the Board is now in receipt of a copy of a letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 from the Dy. Conservator of Forests, Forest Department, Government of Goa, wherein it is stated that the approval of the Chief Wild Life Warden bearing no. 6/13-(172)-97-FD/161 dated 11/04/201, for mining T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, stands cancelled with immediate effect.

WHEREAS, the Goa State Pollution Control Board at its 101st meeting held on 08/07/2011, had decided as follows;

a. Applications for renewal of Consent to operate as submitted by the Mining units under the Water Act and the Air Act can be considered and granted by the Board subject to the compliance of the pollution control norms. A condition should be incorporated in the Consent as follows:-

   "The mining company should comply with all the conditions laid down in the environment clearance issued by the Ministry of Environment and Forests, Government of India. The mining company should obtain approval from the Chief Wildlife Warden and clearance under the Forest (Conservation) Act, wherever required by the Environmental Clearance of the respective mining units, and submit copies of the same to the Board for records."

b. It is further resolved to issue notice of suspension of mining operations to all mining units who have failed to produce the NOC/approval from the Chief Wildlife Warden and/or permissions under the Forest (Conservation) Act, 1980, as the case may be, till such time as the required documents are produced before the Board.

NOW, THEREFORE, in light of the cancellation of the approval of the Chief Wild Life Warden for mining activity in T.C. no. T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, as conveyed by the Dy. Conservator of Forests, Forest Department, Government of

7. Since the P.I.L writ petition is connected with the present petition, the hearing of said writ petition is pre-poned and fixed on 17/11/2011 along with the present petition.

8. Stand over to 17/11/2011.

A. P. LAVANDE, J,

U. V. BAKRE, J.

Ap/-

WHEREAS, in light of the aforestated approval of the Chief Wild Life Warden, dated 11/04/2011, the Board had granted your mine unit renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, bearing no. 6/1878/09-PCB/9784 dated 21/04/2011 and the renewal of Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 bearing no. 5/2758/05-PCB/9783 dated 21/04/2011.

WHEREAS, the Board is now in receipt of a copy of a letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 from the Dy. Conservator of Forests, Forest Department, Government of Goa, wherein it is stated that the approval of the Chief Wild Life Warden bearing no. 6/13-(172)-97-FD/161 dated 11/04/201, for mining T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, stands cancelled with immediate effect.

WHEREAS, the Goa State Pollution Control Board at its 101st meeting held on 08/07/2011, had decided as follows;

a. Applications for renewal of Consent to operate as submitted by the Mining units under the Water Act and the Air Act can be considered and granted by the Board subject to the compliance of the pollution control norms. A condition should be incorporated in the Consent as follows:-

   "The mining company should comply with all the conditions laid down in the environment clearance issued by the Ministry of Environment and Forests, Government of India. The mining company should obtain approval from the Chief Wildlife Warden and clearance under the Forest (Conservation) Act, wherever required by the Environmental Clearance of the respective mining units, and submit copies of the same to the Board for records."

b. It is further resolved to issue notice of suspension of mining operations to all mining units who have failed to produce the NOC/approval from the Chief Wildlife Warden and/or permissions under the Forest (Conservation) Act, 1980, as the case may be, till such time as the required documents are produced before the Board.

NOW, THEREFORE, in light of the cancellation of the approval of the Chief Wild Life Warden for mining activity in T.C. no. T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, as conveyed by the Dy. Conservator of Forests, Forest Department, Government of

number of animals for the DRF study. For example, if the results of MTD study is reasonably conclusive then only the minimum number of animals will be used for the DRF study. However, if the results of MTD study are inconclusive then the maximum number of animals indicated in the protocol will be used for the DRF study. In both the situations, the actual number of animals used in the study will be recorded in Form D. Thus, the range of animals is given in the protocols for the purpose of IAEC review and CPCSEA approval, as at that stage, the Principal Investigator will not have any understanding of the toxicity in dogs, and it would be difficult to decide the actual number of animals. This was the reason for giving the range of animals in the protocols.

2. **PI may be advised to justify as why exact number cannot be proposed (Project Code: DRF-5/2011 to DRF-10/2011; MTD-5/2011 to MTD-10/2011; and SCD-5/2011 to SCD-10/2011)**

As indicated in the response under point 1 above, it would be difficult for the Principal Investigator to decide the exact number of animals at the stage of preparation of protocol for review by IAEC and subsequently approval by CPCSEA. In order to understand the toxicity profile of a novel molecule, the Principal Investigator initiates the toxicology program with MTD study. Based on the observations and the results from the MTD study, the Principal Investigator will be in a position to decide the actual number of animals needed for the next study (e.g.: DRF).

It may therefore be noted that at the planning stage for review at IAEC meeting and subsequent submission to CPCSEA for approval, the Principal Investigator needs to write the protocol based on general practice and recommendations of guidelines. Accordingly, it would be difficult for the Principal Investigator to exactly specify the number of animals. If the Committee feels that the protocol should specify only one number instead of a range, we propose to include the upper number as specified in guidelines in future protocols. During the actual conduct of study, the actual number used will be documented in Form D.

3. **In case of MTD studies (# 18-23) animals may be reduced to 2 instead of 4 (Project Code: MTD-5/2011 to MTD-10/2011)**

We thank the suggestion of the Committee. We bring to the kind consideration of the Committee that the MTD is the first study that would be undertaken on dogs, based on the results of rat study. If the results of rat study reveal unequivocal conclusions on the toxicological findings, then it would be possible to use the reduced number of dogs (2 animals). However, when the results of rat study reveal inconclusive / inconsistent conclusions on the toxicological findings, then it is considered essential to use the upper number of dogs (4 animals). We request the Committee to kindly consider and approve the protocols.

7. Since the P.I.L writ petition is connected with the present petition, the hearing of said writ petition is pre-poned and fixed on 17/11/2011 along with the present petition.

8. Stand over to 17/11/2011.

A. P. LAVANDE, J,

U. V. BAKRE, J.

Ap/-

ADVINUS

To

Date: 17 May 2011.

The Director (AW) & Member Secretary CPCSEA
Ministry of Environment & Forests
Animal Welfare Division
8th Floor, Jeevan Prakash Building
25, Kasturba Gandhi Marg
New Delhi 110 001

Subject: Your letter No. F.No. 25/109/2011-AWD dated 29th April 2011- regarding.

Dear Sir,

This has reference to your letter, F.No. 25/109/2011-AWD dated 29th April 2011 which notified us to send response/information to CPCSEA for further consideration/approval of three (18) proposals submitted on 11th February 2011.

There were four specific comments by the Committee for all 18 proposals, covering 6 proposals each for Maximum Tolerated Dose (MTD) studies, Dose Range Finding (DRF) studies and Sub-Chronic Dose (SCD) studies. We are giving below our response to the four comments for consideration of the Committee.

1. **In all the protocols, the requirement of animals are given in range (Project Code: DRF-5/2011 to DRF-10/2011; MTD-5/2011 to MTD-10/2011; and SCD-5/2011 to SCD-10/2011)**

   At the time of preparation of protocols for review by IAEC, the practice is to seek approval for a range of animals, which is based on guidelines listed below as well as experience at the test facility.

   - Schedule Y recommends use of 2 animals/study for MTD, 2-3 animals/sex/group for 14-28 day studies and 4-6 animals/sex/group for studies of 90 days and beyond.
   - OECD guideline 409 recommends at least 4 animals / sex /group
   - FDA Red Book recommends at least 4 animals / sex / group
   - Experience for conduct of studies at the test facility is generally in the range of 1-2 animals/sex/study for MTD studies, 1-2 animals/sex/group for DRF studies and 3-4 animals/sex/group (main group and recovery groups).

   Based on the approval of CPCSEA, the studies are performed in the order of MTD, DRF and SCD. The first study on MTD is considered based on initial understanding of toxicity in rodents, and the actual number of dogs required for MTD is decided, and the actual number is also documented in Form D. When DRF study is planned, the results of MTD is considered for choosing the exact

194/CPCSEA
24/5/11

23/5

23-5-11

EC

Advinus Therapeutics Limited
21 & 22, Phase II, Peenya Industrial Area, Bangalore- 560 058
Tel +91 80 2839 4959 / 28396024 Fax : +91 80 28394015 / 28396023
A TATA Enterprise

nos.1 and 2 and he has served copies thereof on the parties to the petition. However, he has not received the original affidavit from Delhi and he will be filing the same in the Court by 16/11/2011. Mr. Ferreira, therefore submits that the matter be taken up on 17/11/2011.

3. This prayer is vehemently opposed by Mr.Coelho Pereira, learned Senior Counsel appearing for the petitioners.

4. Mrs. Alvares, learned counsel has filed application on behalf of Goa Foundation bearing M.C.A no.978/2011 seeking to join the applicant as party respondent in the petition has also filed PIL Writ petition no.27/2011 challenging separate order passed by Respondent no.4 in the present petition and any order passed in the present petition will have a direct bearing on the outcome of the said petition. The said PIL writ petition be taken up along with this writ petition which is fixed on board on 29/11/2011.

5. We are of the considered opinion that the submission made by Mr. Ferreira deserves to be accepted since it is necessary to know the stand taken by respondent no.1 in the matter before any order is passed in the petition. Moreover, any order passed in the present petition will have direct bearing on PIL Writ petition no.27/2011.

6. Accordingly, the writ petition along with the M.C.A. No.978/2011 is fixed for hearing on 17/11/2011. Reply, if any, on behalf of respondent no.1 o be filed by 16/11/2011 and even if the reply is not filed by 16/11/2011, the writ petition and the M.C.A will be taken up for consideration on 17/11/2011.

2. You are requested to comply with the suggestions made by the committee and send the clarification / information to CPCSEA for further consideration / approval of the research protocol by CPCSEA

Yours faithfully,

(Anjani Kumar)
Director (AW) & Member-Secretary, CPCSEA
Tele: 23318553

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI.

Writ Petition No.633 of 2011 & M.C.A. No.978 of 2011

Bandekar Brothers Pvt. Ltd
Through its Director
Mr. Suvarn R. Bandekar
and another .... Petitioners

Versus

Union of India Through
The Secretary,
Ministry of Environment and
Forest and 5 others. ..... Respondents

Mr. C. Coelho Pereira, Senior Advocate with Mr. Veldson Braganza, Advocate for the petitioners.

Mr. C.A. Ferreira, Asst. Solicitor General for respondent nos.1 and 2.
Mr. S.S. Kantak, Advocate General with Mr. A. Kamat, Addl. Government Advocate for respondent nos.3 to 5.
Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A.P. Lavande,
U. V. Bakre, JJ
Date:-15th November, 2011.

P.C:

Mr. Coelho Pereira, learned Senior Counsel appearing for the petitioners submits that the order passed by respondent no.5 and the order passed by respondent no.6 suspending the operations are creating serious prejudice and as such, the matter be taken up today.

2. . Mr. Ferreira, learned Assistant Solicitor General appearing for respondent nos.1 and 2 submits that he has received a copy of the affidavit-in-reply of respondent

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Petitioner

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Ferreira, Asst. Solicitor General for respondents No.1 & 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents NO.3 to 5.
Mr. J. Godinho, Advocate for respondent No.6.

Coram:- A. P. LAVANDE &
SMT. R. P. SONDURBALDOTA, JJ.

Date:- 20th October, 2011

P.C.:-

Mr. Kantak, learned Advocate General appearing on behalf of respondents No.3 to 5 submits that in view of the affidavit filed in PIL W.P. No.27/2011, respondents No.3 to 5 shall reconsider the decision taken in the matter which has been conveyed to the petitioners by communication dated 23rd September, 2011 within a period of one week and communicate the same to the petitioners immediately, thereafter.

2. Mr. Coelho Pereira, learned Senior Counsel appearing for the petitioners submits that the Petitioners would have no objection if respondents No.3 to 5 reconsider the decision taken in the matter and convey it to the petitioners. He, therefore, prays that the petition

be kept after Diwali vacation. S.O. 29th November, 2011. To be heard along with PIL W.P. No.27/2011.

Liberty to the petitioners to mention the matter before the next date, in the event the decision taken by respondents No.3 to 5 is adverse to the petitioners.

A. P. LAVANDE, J.

SMT. R. P. SONDURBALDOTA, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Petitioner

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Ferreira, Asst. Solicitor General for respondents No.1 & 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents NO.3 to 5.
Mr. J. Godinho, Advocate for respondent No.6.

Coram:- A. P. LAVANDE &
SMT. R. P. SONDURBALDOTA, JJ.

Date:- 20th October, 2011

P.C.:-

Mr. Kantak, learned Advocate General appearing on behalf of respondents No.3 to 5 submits that in view of the affidavit filed in PIL W.P. No.27/2011, respondents No.3 to 5 shall reconsider the decision taken in the matter which has been conveyed to the petitioners by communication dated 23rd September, 2011 within a period of one week and communicate the same to the petitioners immediately, thereafter.

2. Mr. Coelho Pereira, learned Senior Counsel appearing for the petitioners submits that the Petitioners would have no objection if respondents No.3 to 5 reconsider the decision taken in the matter and convey it to the petitioners. He, therefore, prays that the petition

be kept after Diwali vacation. S.O. 29th November, 2011. To be heard along with PIL W.P. No.27/2011.

Liberty to the petitioners to mention the matter before the next date, in the event the decision taken by respondents No.3 to 5 is adverse to the petitioners.

A. P. LAVANDE, J.

SMT. R. P. SONDURBALDOTA, J.

ssm.

Disposed

O/C

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 978 of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation	)... Applicant
in	
Bandekar Bros.Pvt Ltd & anr	)...Petitioners
v/s	
Union of India and ors	)...Respondents

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R/C
14/11/11

Panaji, November 2011

Advocate for applicant

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. ____ of 2011

in

Writ Petition No.633 of 2011

The Goa Foundation,
through its Secretary, Dr Claude Alvares,
Addr: Room 7, Above Mapusa Clinic,
Mapusa 403507 Goa,)... Applicant

in

1. Bandekar Bros.Pvt Ltd.,
Suvarn Bandekar Bldg,
Vasco-da-Gama, Goa

2. Mr S.R. Bandekar, residing at
Raj Tara, Opp. Tilak Gd,
Vasco-da-gama)...Petitioners

v/s

1. Union of India through
Ministry of Environment & Forests,
Paryavaran Bhavan, C.G.O. Complex,
Lodi road, New Delhi 110 003

2. Deputy Inspector General (WL),
Government of India
Ministry of Environment & Forests,
Wildlife Division,
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi 110 003

3. State of Goa through Under Secretary,
W/o at Secretariat, Alto Porvorim, Goa.

4. Chief Wildlife Warden,
Office of the Addl. Prin. CCF,
W/o at Dayanand Smiriti,
S.V. Road, Panaji, Goa

5. Deputy Conservator of Forests,
Monitoring & Evaluation,
Forest Department, w/o at Junta House
18 June Road, Panaji, Goa

6. Goa State Pollution Control Board
through Member Secretary, Dempo
Towers, Patto, Panaji, Goa.)... Respondents

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. ____ of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation)... Applicant

in

Bandekar Bros.Pvt Ltd & anr)...Petitioners

v/s

Union of India and ors)...Respondents

Application for being made party respondent

May It Please Your Lordships:

1. Applicant is filing the present application to be joined as respondent in Writ Petition No.633/2011 as any order passed in the petition is likely to materially affect the case of the applicant in PIL W.P 27/2011 filed by the applicant.

2. Applicant also states that the issues in both W.P No.633/2011 and in PIL W.P 27/2011 stem from the same order of the Hon'ble Supreme Court dated 4-12-2006 in W.P 460/2006. Applicant is also the petitioner in W.P 460/2006 which was filled in the Apex Court. Hence applicant, when joined as respondent in these proceedings, is thereby enabled to challenge any order passed in this writ petition, if necessary, before the Hon'ble Apex Court.

3. Already, by order dated 20.10.2011, this Hon'ble Court has recorded the statement of the learned Advocate General that the government is reconsidering its decision to withdraw clearance / stop work order issued to

the petitioner in the light of the stand taken by the government in its affidavit filed in PIL W.P 27/2011.

4. For the aforesaid reasons, applicant is a necessary party in these proceedings. Applicant wishes to file its submissions and bring on record any documents that are relevant but may not have been brought on record by the petitioner.

5. Applicant therefore makes the following prayer:

Prayer:

Petitioner be directed to join the applicant as party respondent in the above writ petition and to supply a copy of the petition to the applicant.

For the above, the applicant is truly grateful.

Dated the 14th of November 2011 Advocate for the Petitioner

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. ____ of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation)... Applicant
in
Bandekar Bros.Pvt Ltd & anr)...Petitioners
v/s
Union of India and ors)...Respondents

AFFIDAVIT IN SUPPORT OF THE APPLICATION

I, Dr Claude Alvares, Indian national, aged 63 years, Secretary, the Goa Foundation, abovenamed applicant, do solemnly state on oath as under

2. I solemnly declare and say that what has been stated in paragraphs 1 and 3 are true to the best of my knowledge and what is stated in paras 2, 4 and 5 are in the nature of legal submissions and/or inferences of facts, which I believe to be true.

Solemnly affirmed at Panaji
this the ___ day of November, 2011 Deponent

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 978/2011

in

Writ Petition no. 633 of 2011

The Goa Foundation)... **APPLICANT**
in
Bandekar Bros. Pvt. Ltd. & anr.)... **PETITIONER**

v/s

Union of India and Ors.)... **RESPONDENTS**

MAY IT PLEASE YOUR LORDSHIPS:

The Petitioner above named most respectfully begs to state and submit as under:

1. The Application of the Applicant is not tenable in law. The Petitioner is dominus litus. Infact the application of the Applicant does not disclose any cogent and tenable ground to seek any relief against the Petitioner, for being impleaded as a party Respondent in the present petition. It is denied that the issues in the present Petition and PIL W.P. No. 27/2011 from the order dated 04-12-2006, of the Hon'ble Apex Court in Writ Petition no. 460/2006 and consequently the question of any order in the present petition materially affecting the case of the Applicant in PIL W.P. No. 27/2011, does not arise.

2. The Petitioner states that infact the orders impugned by the Petitioner in Writ Petition no. 633/2011 are that of Respondent no. 5 dated 23-09-2011 and of the Respondent no. 6 dated 04-10-2011. The question of the Applicant being impleaded in the present petition which the Petitioners have filed with respect

does not arise and the application does not disclose any ground in law to seek impleadment in the Petitioner's petition. Infact the Petitioner in the petition has impleaded all necessary and proper parties to the petition including inter alia the Ministry of Environment and Forests. It is denied that the Applicant is a necessary party in the petition filed by the Respondent. Infact the Applicant has inter alia selectively targeted the Petitioner no. 1 in PIL W. P. No. 27/2011 purportedly filed by the Applicant on a claim of having filed the same in Public Interest.

3. The application of the applicant therefore deserves to be dismissed.

PANAJI-GOA
15-11-2011 **PETITIONER**

ADVOCATE FOR PETITIONER

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IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

Writ Petitioner No. 633/2011

Bandekar Brothers Pvt. Ltd. & Anr. ... Petitioners

V/s

Union of India & ors. ... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NOS. 1 AND 2

I, Ms. Prakriti Srivastava, age 48 years , daughter of Shri T.B.Srivastava , Indian National, Deputy Inspector General (WL) of the Ministry of Environment and Forests, (Wildlife Division), Government of India, having office at Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi 110 003, do solemnly state on oath and affirm as under:-

1. I am duly authorized to swear the Affidavit on behalf of Respondent No. 1.

2. I am also swearing the Affidavit on behalf of myself who has been impleaded as Respondent No.2 herein. The Affidavit is based on records available in my office. Any averment not controverted nor denied ought not to be construed as having been admitted. I crave leave to file a detailed Affidavit in the event the Petition is admitted.

3. I submit that by Order dated 04/12/2006 passed in Writ Petition No.460/2004 (**Annexure I**), the Hon'ble Supreme Court passed an interim order wherein it has been acknowledged that the State of Goa had submitted a proposal and it was further recorded that the same does not seem to be in full conformity with what was sought for in the Ministry's letter dated 27/05/2005 and hence the Hon'ble Supreme Court, inter alia directed as follows:-

> "... the Ministry directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27/05/2005. The State of Goa also is directed to give appropriate proposal in addition to what is said to have already been sent to the Central Government..."

4. Before proceeding further, to set out relevant facts, it is material to note that the Petitioners themselves have annexed copy of the Order dated 04/12/2006

passed in Writ Petition No.460/2004 by the Hon'ble Supreme Court in which order itself it is clear that the Hon'ble Supreme Court is seized of the matter relating to the State Government having to notify the area within 10 kms. of boundaries of National Parks and Sanctuaries as eco-sensitive zones. I respectfully submit that once the Hon'ble Supreme Court is seized of the matter it may not be proper nor desirable for this Hon'ble Court to entertain the present petition and grant any relief in this regard and the Petitioners ought to be relegated to approach the Hon'ble Supreme Court if so advised, whether the same relates to the competence of the Standing Committee of the National Board for Wildlife or otherwise. On this count also the Petition ought not to be entertained..

5. In the said order of the Hon'ble Supreme Court it has also been directed by the Supreme Court as follows:-

> "The MOEF would also refer to the Standing Committee of the National Board for Wildlife under Sections 5(b) and 5(c)(iii) of the Wildlife (Protection) Act, the cases where environment clearance has already been granted where activities are within 10 km. zone."

6. It is therefore clear from a perusal of the above order that as an interim measure, the Hon'ble Supreme Court has directed the Standing Committee to consider the cases where environmental clearance is already granted where activities are within 10 km. zone.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

7. It could therefore be seen that the recommendations not being in consonance with the requirement, in terms of the directions of the Hon'ble Supreme Court, all such cases having any development in the 10 km. zone pending the final notification, is required to be placed before the National Board for Wild Life as directed by the Hon'ble Supreme Court.

8. The said mine site is within 10 kms, from the boundary of a Protected Area in Goa and if it is allowed for non forestry activities, it can only be done after obtaining due approval from the Standing Committee of the National Board for Wildlife, Forest clearance, Environment clearance and from the Hon'ble Supreme Court.

9. Human Wildlife conflict issues are more prevalent in areas that are fragmented. Wildlife tends to be prone to be more hostile towards human in such areas as their habitats are destroyed. Such human wildlife conflict situations are not only harmful to wild animals but more so to humans as it even leads to human deaths and crop damages. Damages to humans and their crops, due to elephant raids, human deaths and cattle lifting by leopards etc. are few striking examples of such a situation which occur due to habitat fragmentations. Mining operations, including transportation and movement of vehicles will have significant impact on wildlife.

10. The proponents shall be directed to take mandatory clearance from statutory authority before commencing such mining activities that are within 10 km from the boundaries of National Park and Wild Life Sanctuary which is a mandatory requirement. In order to place a proposal before the Standing Committee of National Board for Wildlife, the applicant is required to complete the forms prescribed by the Ministry of Environment and Forest (available on website of MoEF http:/ /envfor.nic.in) and submit it to the concerned Park Manager, who in turn would submit to the concerned Chief Wildlife Warden. The Chief Wildlife Warden would, after obtaining the recommendation of the State Board for Wildlife would submit the proposal to the Member Secretary National Board for Wildlife through the State Government.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

11. Further, the Ministry of Environment and Forest has subsequently also issued several Office Memorandam (**Annexure II**) to the Forest Department of Goa detailing the procedure to be followed in regard to grant of environment clearance and making it explicitly clear that proposals within 10 km of Wildlife Sanctuaries, National Park must first procure clearance from the Standing Committee of NBWL. The Chief Wildlife Warden and the functionaries of the Forest Department are also very much aware of the said order.

12. It has now come to the notice of this office that in the past few months several approvals were suddenly granted to mining operators by the Chief Wildlife Warden without awaiting the approval from the Standing Committee of the National Board of Wildlife. A letter dated 28/03/2011

P. Divakar

from the Asst. Conservator of Forests (Legal) to the Under Secretary (Forest) makes this amply clear. **(Annexure III).**

13. The Chief Wildlife Warden is bound to comply with the interim order dated 4/12/2006, passed by the Hon'ble Supreme Court in the same petition and was required to direct its applicants to seek the mandatory clearances from the Standing Committee of the NBWL.

14. The Chief Wildlife Warden is an officer authorized to take all measures for protection and wildlife and its habitat in accordance with the provisions of the WildLife (Protection) Act, 1972. In the instant case, the Chief Wildlife Warden can only issue No Objection Certificate for mining within 10 km from boundaries of National Parks and Wildlife Sanctuaries after a recommendation of the Standing Committee of NBWL and other statutory clearances. Given the fact that Eco-Sensitive Zones are yet to be notified in the State of Goa, the extent of Eco-Sensitive Zones is to be taken as 10 km from boundaries of National Parks and Wildlife Sanctuaries till such time the Eco-Sensitive Zones are notified.

15. The Hon'ble Supreme Court has been considering the impact of several industrial activities on Wildlife Sanctuaries. Issue of Eco-Sensitive Zone is before the Apex Court in Writ Petition No.460/2004. In the interim, Hon'ble Supreme Court issued a orders in respect of declaration of Eco-Sensitive Zone surrounding wildlife sanctuaries.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

16. It is once again submitted that the order of the Supreme Court is to be followed in letter and spirit. In view of the above submissions, it is prayed before this Hon'ble Court that the petitioner be directed to seek all Statutory Clearance before commencing any mining activities as allowing mining and other activities without consideration of the impact of these activities on Eco-sensitive zones is bound to be a hazard for Wildlife, which, as it is, is being disturbed and increasing incidence of wildlife entering residential areas is reported.

17. I respectfully state that the Wild Life Warden has powers under the Wild Life Act in terms of Section 33 thereof. Yet, no objection from the Chief

Wild Life Warden is also mandated to be obtained to ensure that due care and protection of the ecology is taken when clearance is given. However, as mentioned above, the NOC of the Chief Wild Life Warden by itself is not sufficient for a clearance within the 10 km. zone from the boundary of a Wild Life Sanctuary either under the Wild Life Act or as per directions of the Hon'ble Supreme Court and hence even if any NOC has been granted by the Chief Wild Life Warden, this itself would not be sufficient nor be constituted as a clearance required in terms of the Wild Life Act and/or the terms of the Hon'ble Supreme Court.

18. In view of the above, the Petition ought to be rejected.

19. I say that the Annexures hereto are true copies of the originals.

20. I say that the factual contents of the above paragraphs are based on official records to which I have access and I believe the same to be true.

NOTARY J. S. CHAWLA ACT OF DELHI REGN. NO. 3035

Solemnly affirmed on this 11th day of November, 2011 at New-Delhi.

Deponent

(PRAKRITI SRIVASTAVA)
Dy. Inspector General (WL)
Min. of Env. & Forests
Govt. of India, New Delhi

Identified by:-

I Identify the deponent who has Signed/put T.I. in my Presence

RAVI KUMAR
D/2492/10

ATTESTED
NOTARY DELHI

Register Entry No. 1155 dated 11/11/2011

11 NOV 2011

ANNEXURE I

ITEM NO.50 COURT NO.1 SECTION

PIL

129

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 460 OF 2004

GOA FOUNDATION
Petitioner(s)

VERSUS

UNION OF INDIA
Respondent(s)

(With appln(s) for stay and c/delay in filing affidavit and directions and intervention and impleadment and modification and ad-interim ex-parte direction/clarification and seeking permission to bring additional document on record and office report)

WITH W.P.(C) NO. 91 of 2005

(With appln. for interim directions and office report)

Date: 04/12/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s)

Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat,Adv.
Mr. S.K. Dholakia, Sr.Adv.
Dr. A. Francis Julian, Adv.
Mr. Sumit Kumar, Adv.
Mr. Sanjeev K. Trivedi, Adv.
Mr. Anil Jain, Adv.
Mr. K. Arunesh, Adv.
for M/S Arputham,Aruna & Co., Advs.

For Applicants -Salgaocar Bros.(P) Ltd.:

Mr. K.K. Venugopal, Sr.Adv.
Mr. Pratap Venugopal, Adv.
Mr. E. Venu Kumar, Adv.
Mr. Harshad Hameed, Adv.

for M/s. K.J. John & Co., Advs.

Mr. A.N.S. Nadkarni, Adv.

NOTARY J. S. CHAWLA NCT OF DELHI REGN. NO. 8275 GOVT. OF INDIA

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Mr. Pratap Venugopal, Adv.
Mr. Malkarnekar, Adv.
Mr. Harshad Hameed, Adv.
Mr. E.Venu Kumar, Adv.
for M/s. KJ John & Co., Advs.

For Intervenor: Mr. Rishi Maheshwari, Adv.

Ms. Anne Mathew, Adv.
Ms. Shally b. Maheshwari, Adv.

For NATCO Pharma: Mr. S.Chandra Shekhar, Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr.Adv.
Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Adv.
Mr. Yashraj Deora, Adv.
Mr. Mannoj Mehta, Adv.

for M/s. K.L. Mehta & Co., Advs.

Union of India: Mr. G.E. Vahanvati, S.G.
Mr. Vikas Sharma, Adv.
Mr. Shilpa Singh, Adv.
Mr. R.C.Kathiya, Adv.
Mrs. Anil Katiyar, Adv.

For Haryana: Mr. Ajay Siwach, AAG.
Mr. Manjit Singh, AAG.
Mr. T.V. George, Adv.
Mr. Bharat Sangal, Adv.
Mr. R.R.Kumar, Adv.
Mr. Samyadip Chatterji, Adv.
Ms. Suchita Sharma, Adv.

For TATA Steel: Mr. Gopal Jain, Adv.
Mr. R.N. Rakanjawala, Adv.
Mrs. Nandini Gore, Adv.
Mr. Manik Karanjawala, Adv.

For Goa SPCB &
Sec.Env., St.of Goa: Mr. Bhavanishankar V. Gadnis, Adv.
Mrs. B. Sunita Rao, Adv.
Mr. Aruneshwar Gupta, Adv.
M/s. Lawyer's Knit & Co., Advs.
Mr. Anip Sachthey ,Adv.
Mr. B. Partha Sarthy ,Adv.
Mr. M.K. Dua ,Adv.
M/S Gagrat & Co. ,Adv.
Mr. Sunil Kumar Jain ,Adv.
Mr. Rakesh K. Sharma ,Adv.
Ms. Praveena Gautam ,Adv.
Mr. Nikhil Nayyar ,Adv.
Mrs. Prabha Swami ,Adv.

NOTARY
J. S. CHAWLA
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(M. V. Karkl
Conservator of Forests

UPON hearing counsel the Court made the following

O R D E R

The order dated 16th October, 2006 refers to a letter dated 27th May, 2005 which was addressed by the Ministry of Environment and Forests (MoEF) to the Chief Wildlife Wardens of all States/Union Territories requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. The order passed on that date was that MoEF shall file an affidavit stating whether the proposals received pursuant to the letter of 27th May, 2005 have been referred to the Standing Committee of National Board for Wildlife under the Wild Life (Protection) Act, 1972 or not. It was further directed that such of the States/Union Territories who have not responded to the letter dated 27th May, 2005 shall do the needful within four weeks of the communication of the directions of this Court by the Ministry to them.

It seems that despite the letter dated 27th may, 2005 and despite the Ministry having issued reminders and also bringing to the notice of the States/Union Territories the orders of this Court dated 16th October, 2006, the States/Union Territories have not responded. However, we are told that the State of Goa alone has sent the proposal but that too does not appear to be in full conformity with what was sought for in the letter dated 27th May, 2005.

The order earlier passed on 30th January, 2006 refers to the decision which was taken on 21st January, 2002 to notify the areas within 10 km. of the boundaries of national parks and sanctuaries as eco-sensitive areas. The letter dated 27th May, 2005 is a departure from the decision of 21st January, 2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1972.

The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27th May, 2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January, 2002, namely, notification of the areas within 10 km. Of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.

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The MoEF would also refer to the Standing Committee of the National Board for Wildlife, under Sections 5(b) and 5(c)(ii) of the Wild Life (Protection)Act,the cases where environment clearance has already been granted where activities are within 10 km. zone.

List the matter after eight weeks.

(N. Annapurna)
Court Master
Registrar

(V.P. Tyagi)
Asstt.

NOTARY
J. S. CHAWLA
NCT OF DELHI
NOTIN NO. 8275

ANNEXURE II

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F.No. 5-3/2007-FC (Pt)

Government of India
Ministry of Environment & Forests
(FC Division)

Paryavaran Bhavan
C.G.O. Complex, Lodi Road
New Delhi 110 510
Dated: 19th August 2010

To

The Principal Secretary (Forests)
All States/UTs

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 – clarification regarding forest areas outside National Park/sanctuary but within 10 km radius from the boundary – reg.

Sir,

The Ministry has been receiving representations from various project proponents and State Government seeking directions/clarifications regarding rules and regulations to be followed for prior approval under section 2 of the Forest (Conservation) Act, 1980 to forest areas outside National Park/sanctuary but within 10 km radius from their boundary.

The matter has been examined in the Ministry in the light of Hon'ble Supreme Court order dated 4th December, 2006 in I.A. No. 460 of 2004, *inter-alia*, directing that all cases where environmental clearance (EC) under EIA Notification, 2006 has been given by the Ministry be put up to the Standing Committee of National Board of Wildlife. Accordingly, the environmental clearances to the projects coming within 10 km from the boundary are being granted with the condition to obtain recommendation of the Standing Committee of National Board of Wildlife as one of the stipulations.

I am further directed to inform that in case of those projects, which require environmental clearance under EIA Notification, 2006 and also involve diversion of forest land for non-forest purposes falling within 10 km of National Park/Sanctuary will have to be placed before the Standing Committee of the National Board of Wild Life as per this Ministries Office memorandum no. J.11013/41/2006-IA .II(I) dated 02.12.2009 (copy enclosed)

NOTARY
S. CHAWLA
DELHI

In view of the above, I am directed to inform that the decision of the Central Government for prior approval under section 2 of the Forest (Conservation) Act, 1980 will be conveyed to the State/UT Governments with the stipulation that the EIA for the case, wherever required, be placed before the Standing Committee of the NBWL.

Yours faithfully,

Sd/-

(C.D. Singh)
Sr. Assistant Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, All States/UTs
2. The Chief Wildlife Wardens, All States/UTs
3. The Nodal Officer (FCA), O/o the PCCFs, All States/UTs
4. All Regional Offices of this Ministry/RO (HQ), MoEF, New Delhi

---

No. 6-13-(330)-2009-FD/8130 Dated: 17.9.10

Copy forwarded for information and necessary action to

1. The Chief Conservator of Forests, Panaji – Goa
2. The Conservator of Forests (Cons.) Panaji/Wildlife to Eco-Tourism, Panaji
3. The Deputy Conservator of Forests, North, Ponda/South Margao, Wildlife to Eco-Tourism, Panaji /Working Plan Division, Panaji/Planning to Statistics, Panaji/Research to Utlilization, Margao/Social Forestry, Ponda/Soil Conservation, Ponda.
4. A.C.F.(LC) of this office

Sd/-

(D.N.F. Carvalho)
Dy Conservator of Forests

NOTARY
J. S. CHAWLA
NCT OF DELHI
REGN. NO. 8275
GOVT. OF INDIA

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Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003

F. No.1-9/2007 WL-I (pt)
Dated: 20th May 2011

The Chief Wildlife Warden,
Government of Goa,
Dayanand Samriti Building,
Old Passport Office,
Panaji-403 001.

Sub: Declaration of Eco-sensitive zones around National Parks and Sanctuaries in Goa.

Sir,

Kindly find enclosed copy of a PMO ID no.670/73/C/4/2011-ES.I received from the Director, Prime Minister's Office regarding the issue of revision of the recent National Board for Wildlife order extending the buffer zone outside notified wildlife sanctuaries to 10 km, given the small size of the State.

In this context, reference is invited to the proposals forwarded to the Ministry by the Government of Goa for declaration of eco-sensitive zones around National Parks and Sanctuaries. Since this Ministry has now issued guidelines in this regard on 9th February 2011 (copy enclosed), the above mentioned proposal of Government of Goa may kindly be modified so as to be in consonance with these guidelines. Your kind attention is drawn to Para 6 of the said guidelines wherein it has been provided that a small Committee may be constituted to look into the following matters:

(i) *Extent of eco-sensitive zones for the Protected Area being considered.*
(ii) *The requirement of such a zone to act as a shock absorber.*
(iii) *To suggest the best methods for management of the eco-sensitive zones, so proposed.*
(iv) *To suggest broad based thematic activities to be included in the Master Plan for the region.*

The above aspect may kindly be kept in view while formulating the proposals for Eco-sensitive zones. Further, while forwarding such proposals to the Ministry, a reference of the outcome of the committee's recommendations that had formed the basis of the proposal, be also explained in the covering letter of the State Government.

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General(WL)
Telefax:011-24360704
E.mail: digwl-mef@nic.in

NOTARY
J. S. CHAWLA
NCT OF DELHI
REGN. NO. 8275
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Issued
20/5/11

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Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003

F. No. 6-69/2011 WL
Dated: 30th May 2011

To
The Chief Wildlife warden
Government of Goa
Panaji.

Sub: Grant of clearance for mining by Bandekar Brothers Pvt. Ltd, Goa within the Eco-Sensitive Zone in Goa.

Sir,

Kindly find enclosed a copy of the letter of the Dy. Conservator of Forests, Government of Goa addressed to M/s Bandekar Brothers Pvt. Ltd, Goa wherein permission for taking up mining activities in Pale village of Bicholim Taluka has been granted. The said permission is in not in conformity with the orders of Hon'ble Supreme Court dated 4th December 2006 in Writ Petition (Civil) No. 460/2006 and therefore, needs to be cancelled.

The competent authority in such cases is the Standing Committee of NBWL and therefore, detailed proposal (10 copies) as per the prescribed proforma available in the web site of the Ministry of Environment and Forests (http://envfor.nic.in), along with clear maps, etc, be submitted to this Ministry, for placing them before the Standing Committee of NBWL.

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General (WL)
Phone no: 011- 24360704
E. Mail: digwl-mef@nic.in

Copy to: The Regional CCF, Ministry of Environment and Forests, Southern Regional Office, Bangalore.

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O/C issued
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Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110003

F.No.6-69/2011 WL
Dated : 18th October, 2011

To
The Chief Wildlife Warden
Government of Goa
Panaji.

Sub: Grant of clearance for mining within the Eco-Sensitive Zone in Goa

Sir ,

Kindly refer to this Ministry letter of even no. dated 30th May, 2011.In continuation to the said letter, it is to clarify that the provisions indicated in the guidelines of this Ministry, Orders of Hon'ble Supreme Court are applicable to all such cases of mining which are within 10 Kms from the boundaries of National Parks and Wildlife Sanctuaries. This particular provision has already been indicated in the said letter.

Further, in the above mentioned letter dated 30th May 2011, the mines of M/s Bandekar have been specifically quoted as the Regional Office of Ministry of Environment And Forest, Bangalore, had brought this particular case to the notice of this office. However, it is once again clarified that the provision shall apply to all cases as indicated in Para 1 above .

Yours faithfully,

(Prakriti Srivastava)
Deputy Inspector General (WL)
Telefax: 011-24360704
E.Mail : digwl-mef@nic.in

Copy to: The Regional CCF, Ministry of Environment and Forests,
Southern Regional Office, Bangalore

NOTARY
J. S. CHAWLA
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GOVT. OF INDIA

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भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.
Phone No. 080 25635901
Fax No. 080 25537184

सत्यमेव जयते

No. : EP/12.8/min/2010-11/9862
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN BANGALORE
दूरभाष :
Telephone :

Dated 29.9.2011

To

The Chief Wildlife Warden and
Additional Principal Chief Conservator of Forests
Forest Department, Government of Goa
Panaji, Goa.

Subject : Grant of clearance for mining by Bandekar Brothers (P) Limited, Goa within the Eco-sensitive Zone in Goa – reg

Reference: This office letter No. EP/12.1/228/GOA/9215 dated 7.6.2011

Sir,

Vide the above referred letter your attention was drawn to Ministry of Environment and Forests letter No. 6-69/2011/WL dated 30.5.2011 and necessary action was requested as per the letter. Your kind attention is also drawn to all other cases where approval of Standing Committee of the National Board for Wild life has not been obtained and are requested to take necessary action in the matter.

(K.S.Reddy)
Chief Conservator of Forests (C)

Copy to Ms. Prakruti. Srivastav, DIG (WL), Ministry of Environment and Forests, Room No. 514, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi-110 003 for information.

(K.S.Reddy)
Chief Conservator of Forests (C)

NOTARY
J. S. CHAWLA
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ANNEXURE III

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GOVERNMENT OF GOA

Office of the Addl. Pr. Chief Conservator of Forests

Forest Department

Panaji, Pin 403001.

Ph: - 0832-2224747, 2421414. Fax: - 0832-2224747.

No.6-13-(96)-97-FD/ 387
Dated: 26/04/2011

To,
M/s. N.S. Narvekar,
Bombi Niwas,
Margao – Goa, 403601.

Sub: - Approval of Chief Wildlife Warden for mining as stipulated in Environmental Clearance granted by the Ministry of Environment and Forests, Government of India.

Sir,

This has reference to your application dated 16/09/2009 requesting for approval of the Chief Wildlife Warden for mining in T.C. no. 40/51 of Santona village of Sanguem Taluka as stipulated in the Environmental Clearance granted by the Ministry of Environment and Forests. Government of India vide their letter no. J-11015/101/2005.IA.II (M) dated 14/05/2007. The matter has been examined after the field verification by the Wildlife / Forest officials as per the parameters/criteria indicators considered relevant from the point of wildlife conservation. Since these have not been reported to adversely / negatively impacting upon the wildlife as a consequent of mining operation carried out over the site of the lease, the Chief Wildlife Warden, Goa with the concurrence / approval of the State Government, hereby accords approval to your company / firm for mining in T. C. No. 40/51 only situated at Santona village of Sanguem Taluka subject to the following conditions:

1) The Project Authority shall maintain a layered vegetation cover along the periphery of their lease area so as to act as buffer from the habitation / wildlife area. Forest Department shall provide necessary technical support / guidance in establishing and maintenance of the same.

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2) The Management Plan for conservation of endangered flora and fauna submitted by Project authority should be implement by the Project Authority.

3) Noise level due to mining activity shall be restricted to decibel level fixed so that no disturbance is caused to wild animals. This shall be regularly monitored through agency like Goa State Pollution Control Board.

4) There shall not be any spillage of metallic ore / sewage from the active mining area, which may cause seepage through stream / nallah, which are passing through forest area / sanctuary area.

5) Use of explosives, if any, is to be avoided so as not to cause any disturbance to wildlife in adjoining sanctuary area.

6) Human activities due to operation of mining shall be restricted to optimum level, so as not to cause any disturbances / threat to wild animals.

7) Environmental / ambience quality shall be regulated and monitored from time to time through Goa State Pollution Control Board.

8) The Clearance / permission granted to project proponent on wildlife angle shall be subject to directions / guidelines issued from Ministry of Environment and Forests, Government of India and directions of Higher Courts, if any, related to Wildlife Conservation and their Management.

9) The Project proponent shall get the site specific management / perspective plan in consultation with the Forest / Wildlife authorities of the State Government which should be implemented at the cost of the project authorities towards conservation of flora/ fauna in the surrounds of the project site and Eco-Development activities to be undertaken for promotion of Wildlife Conservation in the area.

10) The permission shall be valid for the same period as EIA clearance granted by the Ministry of Environment and Forests, Government of India.

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11) Department of Forests / Wildlife Government of Goa shall monitor the working and stipulate any other condition, if considered necessary from Wildlife / Forest angle.

12) The aforesaid conditions shall be enforced to the full satisfaction of the Chief Wildlife warden, Goa State.

13) Failure to comply with conditions mentioned above may result in the withdrawal of this clearance.

14) The permission is subject to the final outcome/any further order of the decision of the Hon'ble Supreme Court in W. P. No. 460 of 2004.

15) No mining operation should be carried out in any forest area, either private or revenue with out approval from MOEF, GOI.

16) The Chief Wildlife Warden reserves the right to revoke the approval at any time.

Yours faithfully,

(Cedric S. D'Souza)
Dy. Conservator of Forests,
Monitoring & Evaluation.

Copy to:

1) The Dy. Conservator of Forests, Wildlife & Eco-Tourism, Junta House, Panaji - Goa.
2) The Dy. Conservator of Forests, South Goa Division, Margao - Goa alongwith the environmental clearance.
3) The Director of Mines, Government of Goa, Panaji - Goa.
4) The Addl. Director(S), Ministry of Environment and Forests, Government of India Paryavaran Bhavan, C. G. O. Complex, Lodi Road, New Delhi.
5) The Chief Conservator of Forests, Regional Office, Ministry of Environment and Forests, Government of India, Bangalore.
6) The Member Secretary, Goa Pollution Control Board, Patto, Panaji - Goa.

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IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 4 OF 2012

Goa Foundation, a Society registered under the Societies Registration Act, 1960, through its Secretary, Dr. Claude Alvares, Addr. : Room 7, Above Mapusa Clinic, Mapusa 403 507, Goa. ..... Petitioner.

V/s.

1. Goa State Pollution Control Board through its Member Secretary, Dempo Towers, Patto, Panaji, Goa.
2. The Chief Wildlife Warden, Forest Department, Panaji, Goa.
3. State of Goa, through its Chief Secretary, Secretariat, Porvorim, Goa.
4. Union of India, through its Secretary, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodi Road, New Delhi 110 003.
5. M/s. Bandekar Bros. Pvt. Ltd., Survarn Bandekar Bldg., P.O. Box No.11, Vasco-da-Gama, Goa. ..... Respondents.

Mrs. Norma Alvares, Advocate for the petitioner.

Mr. A. N. S. Nadkarni, Senior Advocate with Mr. J. Godinho, Advocate for respondent No.1.

Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande, Government Advocate for respondents No.2 and 3.
Mr. V. Braganza, Advocate for respondent No.5.

order dated 4/12/2006 in writ petition No. 460 of 2004 in the matters of Goa Foundation Vs Union of India), a specific condition shall be stipulated that the environmental clearance is subject to their obtaining prior clearance from forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as applicable. Further, it will also be categorically stated in the environment clearance that grant of environmental clearance does not necessarily implies that forestry and wildlife clearance shall be granted to the project and that their proposals for forestry and wildlife clearance will be considered by the respective authorities on their merits and decision taken.

13. Hence, said O. M. stipulates that the project under consideration thus does not only require a prior environmental clearance but also a clearance from the forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as pre-conditions for the grant of environmental clearance by the MOEF. It is also pertinent to note that W. P. (Civil) No. 460/2004, Order dated 04/12/2006 and Office Memorandum dated 02/12/2009 issued by the MOEF is also relied in the case of NOIDA Memerial Complex near Okhla Bird Sanctuary, reported in 2011 (1) SCC 744.

14. In pursuance of the directions of the Hon. Supreme Court as contained in the said Order dated 18/09/2009, (Supra) a matter was placed before the Forest Advisory Committee and it is evident from the MOEF letters dated 29/4/2010 and 3/5/2010 as at pg 187/C - 185/C, that "*After discussing the proposal in detail and considering the State Government's recommendation that there should be no delineating of eco-sensitive zones around the wildlife sanctuaries in Goa in view the of the extreme sensitivity of the Western Ghats Region from the ecological and biodiversity points, the FAC expressed its inability to recommend the proposals, for mining of iron ore within one km from the boundary of the National Park even though the Standing Committee had in mind to recommend such activity within 1 km of a protected area. Consideration of above proposal.*".

CORAM :- S.J. VAZIFDAR &
U.V. BAKRE, JJ.

Date : - 4th October, 2012.

ORAL JUDGMENT:- (Per S.J. VAZIFDAR, J.)

1. Rule. Rule is made returnable and heard forthwith.

2. The petitioner has filed an affidavit today, the contents of which indicate that their grievances stand redressed, at least, at this stage. The affidavit is taken on record.

3. The petitioner has challenged an order dated 29th November, 2011 which revoked an order dated 4th October, 2011, suspending the consents to operate issued in favour of respondent No.5.

4. The petitioner stated in paragraph 2 of the affidavit filed today that the consents to operate issued to respondent No.5 under certain enactments expired on 31st July, 2012 and the consents have

No.7/7(56)09-10/DT/ 2915 November 6, 2009

To,
Ms. Norma Alvares,
Advocate,
G-8, St. Britto's Apartments,
Mapusa, Bardez – Goa
Pin: 403 507.

Sub:- Shacks and Deck-beds on Goa beaches.

Madam,

Please refer to your letter dated 22/10/2009, on the subject cited above.

Enclosed please find copy of the Beach Shack Policy approved by the Government for allotment of temporary Shack, Deck-beds, Umbrellas for the tourist season 2009-10.

In the above context, it is informed that as per Clause No.10 & 13 of the Beach Shack Policy is concerned the size of the Shack from Calangute to Candolim Beach stretches have been reduced to 12 mts. (length) x 6 mts. (breadth), so also the number of deck-beds have been reduced to 05 pairs and 05 Umbrellas. Tourism Department accepts the above decision in view of overall areas of Shacks being maintained by reducing area of existing Shacks.

Further, it is to inform that as per Clause No.14b of the Beach Shack Policy permission to place three pairs of Deck-beds shall be granted to the unemployed local residents subject to site conditions and at locations away from Shacks. However, for the tourist season 2008-09 no such permissions were issued to any unemployed local residents, though the clause was present in last years Shack Policy also. Even before this, Department was permitting setting up of deck beds on payment of certain fees.

Yours faithfully,

(Swapnil Naik)
Director of Tourism

Encl: As above.

not been renewed. In view thereof, as stated earlier, the petitioner's grievances stand redressed and, in any event, do not survive at this stage. Needless to add, this is without prejudice to the rights and contentions of the parties, including respondent No.5 which has applied for renewal of the consents.

5. The petition is, accordingly, disposed of with liberty to the petitioner to adopt proceedings, if necessary in future.

S.J. VAZIFDAR, J.

U.V. BAKRE, J.

ssm.

Sr. No.	Name of the Beaches	Shacks proposed for allotment for the year 2007-08.
1	Velsao	02
2	Arrossim	03
3	Utorda	06
4	Majorda	09
5	Betalbatim	06
6	Colva	12
7	Sernabatim (Colva)	02
8	Benaulim	14
9	Velludo (Benaulim)	03
10	Fatrade (Varca)	07
11	Zalor	04
12	Cavelossim	15
13	Palolem	07
	Total	**90**

NOTE : As far as beaches of Siridao, Velsao, Arrossim & Utorda are concerned the decision is awaited.

2. Permission shall be granted to put up only one Shack to a person provided that no other member of his family is employed or engaged, directly or indirectly, in any business, vocation or profession such as Hotels, Bars, Restaurants or any other type of business like toddy tapping, fishing, sale of handicrafts, souvenirs, travel agencies, tourist transport, etc., or in Government/Semi-Government bodies/Corporations or in private employment etc., or any form of business not so defined.

   The expression "family" shall include husband or wife, as the case may be, dependent parents and unmarried children, unmarried or widowed sisters staying with him/her provided their names figure in the same Ration Card.

3. Applications in the prescribed form as per enclosure for allotment of temporary Shacks to be erected on identified beach stretches are invited from persons who are unemployed and not engaged directly or indirectly in any business, vocation or profession such as Tourist Taxis, Hotels, Bars or Restaurants or in any other business not specified herein above.

4. The Shack shall be put up only at the place indicated in the Permission letter and as demarcated by the Officials of the

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 4 OF 2012

GOA FOUNDATION, THROUGH ITS
SECRETARY DR. CLAUDE ALVARES, ... Petitioner

Versus

GOA STATE POLLUTION CONTROL BOARD
THROUGH ITS MEMBER SECRETARY, ... Respondent

Mrs. Norma Alvares, Advocate for the petitioner.
Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande, Government Advocate for respondents no.2 and 3.
Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande, Advocate for respondent no.1.
Mr. C. A. Ferreira, Assistant Solicitor General for respondent no.4.
Mr. V. Korgaonkar, Advocate for respondent no.5.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 22nd August, 2012

P.C.

Mr. Nadkarni, learned Advocate General appearing on behalf of respondents no.1 to 3 submits that he will file on record a copy of the order passed in terms of his statement made on 24/07/2012 within one week. The statement is accepted.

2. Mr. Nadkarni furnishes a copy of the order passed by Chief Wild Life Warden to Mrs. Alvares, learned Counsel for the petitioner.

3. S. O. to 04/09/2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

SMA

FORM I & XIV

Name of the field / शेताचे नांव: Phansimol
Survey Number / सर्वे नंबर: 100
Khata No. / खाते नंबर:
Village / गांव: Colomba
Tenure / सत्ता प्रकार:
Taluka / तालुका: SANGUEM

I Cultivable Area सागण क्षेत्र	Ha. Ars. हे. आर	Name of the Occupant कब्जेदाराचे नांव	Mutation No. फेरफार नं.	Name of the Tenant कुळाचे नांव
	00.00.00	Government Forest Dept.of Goa		XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(a) Dry Crop --- जिरायत	03.83.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(b) Garden --- बागायत	00.00.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(c) Rice --- भाटी	00.00.00			XXXXXXXXXXXXXXX N I L XXXXXXXXXXXXXXX
(i) Khajan --- खाजण	00.00.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(ii) Ker --- नेर	00.00.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(iii) Morad --- मोरड				XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
II Total Cultivable Area एकूण सागण क्षेत्र	03.83.00			Other Rights ------ इतर हक्क Name of the person holding rights and nature of rights इतर हक्क धारण करण्यांचे नांव व हक्काचा प्रकार
If Un-cultivable --- नांपिक	00.00.00			
Pot - Kharab --- पोट खराब	00.00.00			
(a) Class (a) --- वर्ग (अ)	00.00.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(b) Class (b) --- वर्ग (ब)				XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Total --- एकूण	00.00.00			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Uncultivable नांपिक जमिन				XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Grand Total --- एकूण	03.83.00			XXXXXXXXXXXXXXX N I L XXXXXXXXXXXXXXX
				XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
				XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Assessment --- आकार	0			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Foro --- फोरो	0			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Predial --- प्रीडियाल	0			XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Rent --- रेंट				

DETAILS OF CROPPED AREA
पिकाखालील क्षेत्राचा तपशील

Year वर्ष	Name of Cultivator लागण करणाऱ्याचे नांव	Mode मोड	Season मौसम	Name of Crop पिकाचे नांव	Irrigated Ha. Ars. हे. आर.	Unirrigated Ha. Ars. हे. आर.	Land not available for cultivation नांपिक जमिन Nature प्रकार	Area क्षेत्र Ha. Ars. हे. आर.	Source of Irrigation सिंचनाचा प्रकार	Remark शेरा

INFORMATION NOT AVAILABLE

***

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 4 OF 2012

GOA FOUNDATION, THROUGH ITS
SECRETARY DR. CLAUDE ALVARES, ... Petitioner

Versus

GOA STATE POLLUTION CONTROL BOARD
THROUGH ITS MEMBER SECRETARY, ... Respondent

Ms Norma Alvares,Advocate for the petitioner.
Mr. C. A. Ferreira,Asst. Solicitor General for Respondent.no 4.
Mr. J.E. Coelho Pereira, Senior Advocate with Mr. V. Braganaza, Advocate for Respondent no.5.
Mr. A.N.S. Nadkarni, Advocate General with Mr. J. Godinho, Advocate for Respondent no.1.
Mr. A.N.S. Nadkarni, Advocate General with Mr. D. Lawande, Government Advocate for Respondent no.2,3.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 12th June, 2012

P.C:

In view of the averments made in paragraph 14 of the petition, we direct respondents no.2 and 3 to file an Affidavit dealing with the statements made in the said paragraph. Affidavit to be filed within a period of two weeks.

Other respondents to file affidavits, if any, within a period of two weeks.

Stand over to 3/7/2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ap/-

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 4 OF 2012

GOA FOUNDATION, THROUGH ITS SECRETARY DR. CLAUDE ALVARES, ... Petitioner

Versus

GOA STATE POLLUTION CONTROL BOARD THROUGH ITS MEMBER SECRETARY, ... Respondent

Mrs. Norma Alvares, Advocate for the petitioner.

Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.1.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Additional Government Advocate for respondents no.2 and 3.

Mr. C. A. Ferreira, Assistant Solicitor General for respondent no.4.

Mr. V. Braganza, Advocate for respondent no.5.

Coram:- S. C. DHARMADHIKARI & U. V. BAKRE, JJ.

Date:- 14th February, 2012

P.C.

At the request of the learned Advocate General, who appears on behalf of respondents no.1 to 3 and learned Assistant Solicitor General appearing for respondent no.4 and to avoid any conflicting orders, let this petition be placed with PIL Writ Petition No.27/2011 on 28/02/2012. Registry to list both the matters on board under the same caption.

2. Mr. Braganza, learned Counsel appears and states that he has instructions to file his vakalatnama on behalf of respondent no.5 and

the same would be filed within one week. The Court will proceed presuming that all the parties are served.

S. C. DHARMADHIKARI, J.

U. V. BAKRE, J.

SMA

16168/-

the same would be filed within one week. The Court will proceed presuming that all the parties are served.

ORGANIC FARMING ASSOCIATION OF INDIA

28th April, 2011 at Mapusa, Goa.

TRAVEL REIMBURSEMENT FORM

S. C. DHARMADHIKARI, J.

U. V. BAKRE, J.

Name: Mr. Sarvdaman Patel

Organisation:

Address:

SMA

Ph No.: 09825045730 Email:

Purpose: NSC Meeting

Travel Details:

Date	From	To	Mode of Travel	Amount	Document enclosed
27/4/11	BARODA	GOA	AIRWAYS	4430/-	e-Ticket
2/5/11	GOA	AHMEDABAD	AIRWAYS	4928/-	e-Ticket
			Total	9358/-	

Received Cash / ~~Cheque~~ Rs 9358/- (Rupees Nine Thousand Three Hundred and Fifty Eight Only.)

towards reimbursement of travel costs for NSC meeting.

Sdpalit

(Signature/Name)

PIL WP 4/2012

Prayer : quashing Board's order dt 29/11/2011.
(revoking suspension of order dt 4/10/11 + restoring CtoOperate)

Reason : (1) contrary to Board's resolution dt 8/7/2011
HC directed implement in PIL WP dated

(2) contrary to EC
requires clearance under WPAct

Dates

11/4/2011 — CWW grants WL clearance

21/4/2011 — Board issues Consent

30/5/2011 — MoEF to CWW. WL clearance contrary to SC dt 4/12/2006
— pg 14

23/9/2011 — DCF withdraws WL clearance

4/10/2011 — Board suspends mining.

17/22-11/2011 — AG's statement that CWW order stood withdrawn
— WP of Bandekar withdrawn.

29/11/2011 — Board revokes suspension order

21/8/2012 — DCF withdraws letter dt 23/9/2011
restores CWW clearance

Hence

(1) Board letter 29/11/2011 — contrary to resolution.
— contrary to EC.
On 29/11/2011 — No CWW clearance.

(2) Board relying on HC Orders. to support letter dt 29/11/2011
HC stated — pass appropriate order.

(3) AG's statement binds Govt not Board.
Conflict of interest

(4) SC Order implementation involved.

From the villagers of Colomba and Rivona.
C/o Anand K. Goankar,
Kevona, P.O. Rivona,
Goa – 403 705

Republic Day, Monday, January 26, 2004

International Year of Rice

To,
The Collector / District Magistrate, (South)
Government of Goa,
Margao – Goa.

Sir,

Sub:- POOR TRIBAL FARMERS' PADDY CROPS IN DANGER:

Due to artificial drought that will be created by extraction and discharge of water from pit in survey no. 91 & 96 of Colomba village.

As far as the problems affecting our lives are concerned, we once again humbly bring the following to your kind notice.

1. **Effects of Depletion of Water Resources due to Unplanned. and Unchecked Mining activity:**

Unplanned and Unchecked mining activity has had a negative impact on our water resources affecting our sustainable **agriculture operations, thus affecting our livelihood and lives.**

We residents of Dandolem & Mushcaurem had as far back as **1997** complained that natural water resources of the village had been depleting due to the mining activity.

The complaints were for the following reasons.

g) Scarcity of water for Agriculture operations.
h) Drinking water pollution & scarcity.
i) Low productivity of fields due to silting of fields caused by mining company.

Collectorate of South Goa
Margao
Received on 27/1/04
Signature

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, Stm No 352/2012

GOA BENCH, AT PANAJI

PIL Writ Petition No. 4 of 2012

The Goa Foundation)... Petitioners

v/s

Goa State Pollution Control Board & ors)... Respondents

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Panaji 9th February 2012 Advocate for petitioner

A

IN THE BOMBAY HIGH COURT AT GOA

PIL WRIT PETITION NO.___of 2012

SYNOPSIS CONSISTING OF CHRONOLOGY OF DATES AND EVENTS

Sr. No	Date	Particulars of events or documents if any	Annexure & Page
1	30.5.2011	MoEF writes to State Government objecting to wildlife clearance for Bandekar Bros Mine	Ann.3 p.14
2	23.9.2011	Chief Wildlife Warden cancels the wildlife NOC	Ann.3 p.15
3	4.10.2011	Pollution Board suspends mining activity on TC No.84/54	Ann.3 p.17
4	October 2011	Bandekar Bros file writ petition No.633/2011 challenging the cancellation/suspension of the clearances	
5	17.11.2011 and 22.12.2011	High Court disposes of WP. No. 633/2011 on the basis of statement made by AG	Ann.5 p.23
6	29.11.2011	Pollution Control Board revokes suspension order	Ann.6 p.27
7	8.12.2011	Petitioner files for information under RTI	Ann.7 p.29
8	6.1.2012	Forest Department informs petitioner that the cancellation order has not been withdrawn	Ann.7 p.31
9	31.1.2012	Demand for justice letter sent to the Board	Ann.8 p.32
10	9.2.2012	Writ Petition filed for halting mining operations	

B

POINTS TO BE HEARD

Goa State Pollution Control Board has resolved on 8.7.2011 to grant consent for mining operations on mining leases under the Water Act, 1974 and the Air Act, 1981, subject to compliance with pollution control norms, conditions under Environment Clearance, Forest Conservation Act and wildlife clearance. The Board has also resolved to suspend mining operations where the lease owner was unable to present a valid wildlife clearance. When the Chief Wildlife Warden cancelled his NOC in the case of the Bandekar Bros mine, the Pollution Control Board automatically suspended operations on the lease. The Pollution Control Board has subsequently revoked its suspension order without the restoration of the wildlife clearance which is mandatory requirement as per the environment clearance issued to the Respondent mine.

ACTS/ RULES TO BE REFERRED

The Wildlife Protection Act, 1972

The Water (Prevention & Control of Water Pollution) Act, 1974

The Air (Prevention & Control of Water Pollution) Act, 1981

AUTHORITIES TO BE CITED

Panaji 9.2.2012 Advocate for petitioner

IN THE BOMBAY HIGH COURT AT GOA

(As per Rule 4 (c) of the Bombay High Court PIL Rules, 2010)

PIL WRIT PETITION NO. of 2012

IN THE MATTER OF ARTICLE 226 OF THE CONSTITUTION OF INDIA

AND

IN THE MATTER OF ARTICLES 21 AND 51G OF THE CONSTITUTION OF INDIA

AND

THE WILDLIFE PROTECTION ACT, 1972, WATER AND AIR POLLUTION CONTROL ACTS;

AND

IN THE MATTER OF REVOCATION OF SUSPENSION ORDER ALLOWING FOR OPERATION OF MINING LEASE OF BANDEKAR BROS PVT LTD

Goa Foundation, a society registered under
the Societies Registration Act, 1960,
through its Secretary, Dr. Claude Alvares,
Addr: Room 7, Above Mapusa Clinic,
Mapusa 403507, Goa
Email id: goafoundation@gmail.com
Tel: 2256479
PAN No: AAAAG0249C ....Petitioner

v/s

1. Goa State Pollution Control Board through its Member-Secretary, Dempo Towers, Patto, Panaji, Goa.

2. The Chief Wildlife Warden
Forest Department,
Panaji, Goa.

3. State of Goa through its Chief Secretary, Secretariat, Porvorim, Goa.

4. Union of India through its Secretary,
Ministry of Environment & Forests,
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road New Delhi 110 003

5. M/s Bandekar Bros.Pvt Ltd.
Suvarn Bandekar Bldg.,
P.O. Box No.11, Vasco-da-Gama, Goa ....Respondents

(The above are the registered addresses of parties.)

To

The Hon'ble Chief Justice and Companion Judges,
Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONER
MOST RESPECTFULLY SHOWS

Particulars of the Cause Against which PIL is filed

1. This petition is filed to challenge the revocation of the suspension order issued by the Goa State Pollution Control Board (hereinafter "Board") to the mining lease of Resp. No 5 (T.C. No.84/52) at Pale village, Bicholim taluka, Goa, issued under the Air Act (1981) and the Water Act (1974). As a result of the revocation order, mining has resumed on the lease which is within 10 kms of the boundaries of Bondla and Madei wildlife sanctuaries. The revocation order is contrary to the decision/resolution of the Board, hence it cannot be sustained.

Particulars of the Petitioner

2. Petitioner is an environmental NGO based in Goa who has approached both this Hon'ble Court and the Hon'ble Supreme Court time and again over the past two decades, in public interest, for enforcement of the provisions of environment, wildlife, forest, pollution and mining laws. Registration certificate and names of office bearers of the Society are annexed to the petition at ***Annexure 1***. The annual income of the petitioner society is Rs. 4,09,944 (2010-2011). Petitioner states that there is no civil, criminal or revenue litigation involving the petitioner organization which has

or could have a legal nexus with the issue involved in this PIL. Undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is at ***Annexure 2***.

Declaration of Petitioner

3. Petitioner states that this petition is filed by way of public interest and the petitioner does not have any personal interest in the matter. The PIL is filed in the interests of protecting the environment and wildlife of the State from rampant and illegal mining, much of which is carried out by mining companies in violation of Supreme Court orders, their permissions and with the full knowledge of the statutory authorities.

4. Petitioner states that the entire litigation costs and other charges are being borne by the petitioner organization. Petitioner's advocate has taken up the matter *pro bono* and no legal fees are charged to the organization.

5. Petitioner states that a thorough research has been conducted in the matter raised through the petition and all relevant material has been annexed to the petition.

6. Petitioner states that to the best of petitioner's knowledge and research the issue raised in this petition was not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner on the same matter either in this Hon'ble Court or in the Supreme Court of India.

7. Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards

costs or any other charges and the petitioner shall comply with such requirements.

Facts constituting the cause

8. Petitioner states that a resolution of the Goa State Pollution Control Board was taken at its 101st meeting held on 08.07.2011 which has been informed to this Hon'ble Court already by way of affidavit in PIL WP No. 11/2011 and reads as follows:

> "Applications for renewal of Consent to Operate as submitted by the mining units under the Water Act and the Air Act can be considered and granted by the Board subject to the compliance of the pollution control norms. A condition should be incorporated in the Consent as follows:
>
> a) The mining company should comply with all the conditions laid down in the environment clearance issued by the Ministry of Environment & Forests, Government of India. The mining company should obtain approval from the Chief Wildlife Warden and clearance under the Forest (Conservation) Act, wherever required by the environmental clearance of the respective mining units, and submit copies of the same to the Board for records."
>
> b) It is further resolved to issue notice of suspension of mining operations to all mining units who have failed to produce the NOC/approval from the Chief Wildlife Warden and/or permissions under the Forest (Conservation) Act, 1980, as the case may be, till such time as the required documents are produced before the Board."

CWW – 11/4/2011 WL clearance
Board – 21/4/2011 – Consent
CWW – 23/9/2011 – ~~withdr~~ cancelled WL
Board – 4/10/2011 – suspend mining.

Board – 29/11/11 – ~~resch~~ revoked
CWW – 21/8/2012 suspense
5
withdrew cancell.

9. Thereupon, this Hon'ble Court directed that the resolution at (b) be carried out with respect to 19 mining leases. An action taken report was subsequently filed by the State Govt.

10. The mining lease of the Resp.No.5 was issued a wildlife clearance by the Chief Wildlife Warden (CWLW) of the State on 11.4.2011, pursuant to which Consent to Operate was granted on 21.4.2011. By letter dated 30.5.2011, the Ministry of Environment & Forests objected to the grant of the NOC on the grounds that the clearance was not in accordance with the order of the Supreme Court of India dated 4.12.2006 in Writ Petition No.460/2004. As a result, the wildlife clearance granted to Resp. No.5 was cancelled by the Dy Conservator of Forests/CWLW on 23.09.2011. Pursuant to the cancellation order, and in light of the resolution of the Board dated 08.07.2011 quoted in full above, the Board by an order dated 4.10.2011 directed the Resp. No.5 to suspend its mining operations till such time as it was able to produce a valid approval from the CWLW. Copies of the letters dated 30.5.2011, 23.09.2011 and 4.10.2011 are annexed to this petition as ***Annexure 3 colly***.

11. The Supreme Court in Writ Petition No 460/2004 filed by the Goa Foundation had passed an order dated 4.12.2006 while considering the issue of buffer zones surrounding wildlife sanctuaries. The order requires all mining leases and other projects which are situated within 10 kms of wildlife sanctuary boundaries and which were given environment clearance to get NOC from the Standing Committee of the National Board of Wildlife (NBWL). Copy of the order is at ***Annexure 4*** to this petition. A PIL WP 27/2011 has been filed by the petitioner in this regard and is pending admission and orders. Resp. No.5 is a respondent in PIL WP 27/2011.

Respondent No.5 has also been issued notice by this Hon'ble Court in PIL WP No.31/2011 for production of ore in excess of limits laid down under the Environment Protection Act, 1986.

12. Pursuant to receiving the orders withdrawing the wildlife clearance / suspending mining operations, Resp.No 5 filed writ petition No.633/2011 challenging the aforesaid withdrawal / suspension orders. The petition was disposed of by Order of this Hon'ble Court dated 17.11.2011 (corrected on 22.12.2011) which records the statement made by the Advocate General, appearing for both the Govt. authorities and for the Board, that the order dated 23.09.2011 shall be withdrawn and that upon withdrawal of the order, the Board shall pass appropriate orders. Copies of the High Court orders are at ***Annexure 5 colly***.

13. However, without waiting for the order from the CWLW, who is a statutory authority under the Wildlife Protection Act, 1972, withdrawing his cancellation order and thereby restoring the wildlife clearance, the Board unilaterally revoked its suspension order on 29.11.2011. In other words, the wildlife NOC still stands as cancelled, but the Board has permitted the mine to operate. Copy of the revocation order, impugned in this petition, is at ***Annexure 6***.

14. On 8.12.2011, petitioner applied under the RTI Act to the Board for copy of the order of the CWLW withdrawing his cancellation order. The Board was unable to produce any order. Instead, it transferred the application to the Forest Department. That no order as such has in fact been passed has been confirmed on 6.1.2012, as petitioner was informed by the PIO of the Forest Dept that till date the order dated 23.09.2011 has not been withdrawn by the competent authority (CWLW). Petitioner's application under RTI,

transfer of application by the Board to the Office of the Chief Conservator of Forests and response from the PIO of the Forest Dept dated 6.1.2012 is at ***Annexure 7 colly.***

15. Petitioner submits that the Board's revocation order dated 29.11.2011 is contrary to the resolution of the Board and hence cannot be sustained. It is also contrary to the Environment Clearance which requires clearance under Wildlife Protection Act. It is also not in accordance with the statement made by the AG before the Court on 17.11.2011. The impugned order is therefore liable to be quashed and set aside.

Source of Information

16. Petitioners have obtained the documents produced in this petition under the RTI Act.

Nature and extent of Injury caused / apprehended

17. The CWLW has revoked the wildllife clearance issued to the mining lease in deference to the Supreme Court's order after the same was drawn to his attention by the Ministry of Environment and Forests. When the wildlife clearance stands withdrawn, the Board's order granting consent to operate is defiance of the Supreme Court's order and of the Apex Court's efforts to ensure that wildlife within the country is safeguarded. Petitioner is actively pursuing compliance of the orders of the Apex Court passed in W.P 460/2006. The consent is also at variance with the terms of the environment clearance.

Representations made

18. Petitioner has submitted a demand for justice letter dated 31.1.2012 to the Resp. No.1 which is at ***Annexure 8***.

Delay, if any in filing the petition

19. There is no delay in filing of this petition as it is being filed within weeks of the petitioner being handed over relevant copies of orders impugned in this petition.

Documents relied upon

20. Petitioners rely upon the following documents

a) Letters/orders dated 30.5.2011, 23.09.2011 and 4.10.2011 (Annexure 3 colly)

b) Order dated 4.12.2006 of the Supreme Court of India (Annexure 4).

c) Board's order of revocation dated 29.11.2011. (Annexure 6)

d) Letters related to RTI application (Annexure 7 colly).

Reliefs prayed for:

21. Prayers:

a) For a writ or order in the nature of a writ quashing the revocation order of the Resp.No.1 dated 29.11.2011.

Interim directions and injunctions prayed for:

Interim orders prayed for pending hearing and final disposal of this petition:

b) Pending hearing and final disposal of this petition, for an order staying the mining operations on the mining lease of the Respondent No.5 with TC No.84/52.

c) For an ad-interim order in terms of prayer (b).

d) Any other reliefs this Hon'ble Court may be pleased to grant.

e) For costs of this PIL.

Caveat

22. Petitioner states that no caveat has been received of lodging a caveat by the opposite party.

Place: Panaji
Dated the 9th day of February 2012

Petitioner

Advocate for Petitioner

Annexure-A 2Rs 10

INDIA

दो रुपये

सत्यमेव जयते

TWO RUPEES भारत TWO RUPEES

CERTIFIED COPY

It is hereby certified that the file No. 23/Goa/86 existing in the records of this Office relating to the registration of the Society The GOA FOUNDATION contains a Certificate of Registration which is as follows:-

" CERTIFICATE OF REGISTRATION "

(See rule 5)

(The Societies Registration Act, 1860)

(Central Act 21 of 1860)

Registered No. 23/Goa/86.

It is certified that the Society The GOA FOUNDATION has this day been duly registered under the Societies Registration Act, 1860 (Central Act 21 of 1860).

Given under my hand this day of 11th March, 1986.

FOLLOWS THE SEAL OF:-

DISTRICT REGISTRAR
AND
HEAD OF NOTARY SERVICES
* PANAJI *

Sd/-
(D. V. Coissoro)
DISTRICT REGISTRAR
AND
HEAD OF NOTARY SERVICES.

LIST OF OFFICE BEARERS OF GOA FOUNDATION AS SUBMITTED TO REGISTRAR OF SOCIETIES

SCHEDULE I

(See rule 6)

Statement of annual list of persons referred to in Section 4 of Societies Registration Act. 1860

Name and address of the Society: THE GOA FOUNDATION
Registration No. under the Societies Registration Act. 1860: 23/GOA/86
Date of election and period for which elected: 30.9.2010 FOR THREE YEARS
Period for which the list is filled: 30.9.2010 – 30.9.2013

Sr. No.	Name	Address	Occupation	Age	Designation
1	2	3	4	5	6
1.	Mathias Vaz	Rua da Ourem, Panaji, Goa	Printer	62	President
2.	Claude Alvares	Almeidavaddo, Parra, Goa	Publisher	62	Secretary
3.	Christine Fernandes	Rua da Ourem, Panaji, Goa	Service	49	Treasurer
4.	Dinesh Dias	Defence Colony, Porvorim	Retired	55	Exec. Member
5.	Dean D'Cruz	Defence Colony, Porvorim	Architect	50	Exec. Member

Date: 8.12.2010

Signature

Name and Designation of the Signatory

The Goa Foundation

G-8, St Britto's Apartments
Feira Alta, Mapusa 403507 Goa
www.goafoundation.org
email: goafoundation@gmail.com
Phones: 2263305/2256479

22.12.2010

TRUCOPY OF RESOLUTION

The following is a true copy of the resolution passed by the Goa Foundation at its General Body Meeting held on 30.9.2010 at Panaji:

"4. It was also resolved to authorize Dr Claude Alvares to file writ petitions, as earlier authorized, on issues of public interest in various courts as and when required. It was also resolved to authorize Dinesh Dias to sign petitions and affidavits on behalf of the Goa Foundation as and when Dr Alvares was not in station or unable for whatever reason from doing so."

Attested by:

(Mathias Vaz)
President

(Dr Claude Alvares)
Secretary

The Goa Foundation

G-8, St Britto's Apartments
Feira Alta, Mapusa 403507 Goa
Email: goafoundation@gmail.com
Website: www.goafoundation.org
Phones: 0832-2263305/2256479

UNDERTAKING

I, Dr Claude Alvares, Secretary, the Goa Foundation, petitioner, undertake that I will disclose the source of information leading to the filing of the Public Interest Litigation if and when called upon by the Court to do so.

Panaji _____

(Dr Claude Alvares)
Executive Director and Secretary

Annexure 3

Government of India
Ministry of Environment and Forests
(Wildlife Division)
Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi – 110 003

F.No. 6-69/2011 WL
Dated: 30th May 2011

To
The Chief Wildlife Warden
Government of Goa
Panaji

Sub: Grant of clearance for mining by Bandekar Brothers Pvt. Ltd, Goa within the Eco-sensitive Zone in Goa.

Sir,

Kindly find enclosed a copy of the letter of the Dy. Conservator of Forests, Government of Goa addressed to M/s. Bandekar Brothers Pvt Ltd, Goa wherein permission for taking up mining activities in Pale village of Bicholim Taluka has been granted. The said permission is in not in conformity with the orders of Hon'ble Supreme Court dated 4th December 2006 in Writ Petition (Civil) No. 460/2006 and therefore, needs to be cancelled.

The competent authority in such cases is the Standing Committee of NBWL and therefore, detailed proposal (10 copies) as per the prescribed proforma available in the web site of the Ministry of Environment and Forests (http://envfor.nic.in) along with year maps etc, be submitted to this Ministry, for placing them before the Standing Committee of NBWL.

Yours faithfully,
Sd/-
(Prakriti Srivastava)
Deputy Inspector General (WL)
Phone no: 011-24360704
E.Mail: digwl-mef@nic.in

Copy to: The Regional CCF, Ministry of Environment and Forests,
Southern Regional Office, Bangalore

15

GOVERNMENT OF GOA
Office of the Ad. Pr. Chief Conservator of Forests
Forest Department
Panaji, Pin 403001.
Ph: - 0832-2224747, 2421414. Fax:- 0832-2224747.

No.6-13-(172)-97-FD/ 4004
Dated: 23.09.2011.

To,
The Director,
Bandekar Brothers Private Limited,
Regd. Off.: Suvarn Bandekar Building
P.O. Box No. 11 Vasco-da-Gama, Goa

Sub: - Approval of Chief Wildlife Warden for mining as stipulated in Environmental Clearance granted by the Ministry of Environment and Forests, Government of India.

Ref :- This office letter No. 6-13-(172)-97-FD/161 dated 11.04.2011.

Sir,

Kindly refer to the above cited letter whereby the clearance of the Chief Wildlife Warden for mining in T.C. No. 84/52 of Pale Village, Bicholim Taluka. as stipulated in the Environmental Clearance granted by the Ministry of Environment and Forests, Government of India vide their letter no. J-11015/351/2005.IA.II (M) dated 18.4.2007, was conveyed.

As per the letter from Ministry of Environment and Forests, it is hereby conveyed that the above referred approval/clearance of the Chief Wildlife Warden stands cancelled with immediate effect. It is further to inform that the competent authority to issue such clearance/approval, as per Supreme Court judgement dated 4.12.2006 in W.P No. 460 of 2004 is the National Board of Wildlife. You are, therefore, advised to submit your proposal in the prescribed format for the consideration of the Standing Committee of the National Board for Wildlife.

pl examine & p.u.
5002250
27/9/11
27
J40 Pl note & ... 27/9/11
SO

Yours faithfully,

(Cedric S. D'Souza)
Dy. Conservator of Forests,
Monitoring & Evaluation

Copy to:

1) The Dy. Conservator of Forests, Wildlife & Eco-Tourism(North) Junta House, Panaji - Goa.
2) The Dy. Conservator of Forests, North Goa Division, Ponda - Goa alongwith the environmental clearance.
3) The Director of Mines, Government of Goa, Panaji - Goa.
4) The Addl. Director (S), Ministry of Environment and Forests, Government of India, Paryavaran Bhavan, C. G. O. Complex, Lodi Road, New Delhi.
5) The Chief Conservator of Forests, Regional Office, Ministry of Environment and Forests, Government of India, Bangalore with reference to letter No. EP/12.1/228/Goa/9215 dated 7.6.2011.
6) The Member Secretary, Goa State Pollution Control Board, Patto, Panaji - Goa.
7) The DIG (WL), MoEF, GoI, Paryavaran Bhavan, C. G. O. Complex, Lodi

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos. : 91-0832-2438567, 2438528
2438563, 2438550.
Tel./Fax No. : 0832-2438528
Email : goapcb@yahoo.com
goapcb@rediffmail.com
website : www.goaspcb.gov.in

Dempo Towers,
EDC Patto Plaza,
Panaji, Goa - 403 001.

No. 5/2758/05-PCB/ 4575 4 /10//2011

DIRECTIONS UNDER SECTION 31(A) OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981 AND UNDER SECTION 33(A) OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

WHEREAS, the Goa State Pollution Control Board was in receipt of an application dated 09/12/2009, from your mine unit, namely, Jaquela Ou Jacadevicho Mollo iron ore mine, operated by M/s Bandekar Bros. Pvt. Ltd., bearing T.C. no. 84/52, located at Village Pale, Taluka Bicholim, North Goa, for renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981.

WHEREAS, vide show cause notice bearing no. 1/25/07-PCB/4055 dated 18/08/2010, this Board had directed you to show cause with all relevant documents, as to why your said application dated 09/12/2009 for renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, should not be rejected / refused by the Board, as you have failed to submit a copy of approval from the Chief Wild Life Warden for the operation of your said mine.

WHEREAS, during the course of a personal hearing held on 02/10/2010, on the aforestated show cause notice dated 18/08/2010, representatives of your mine unit submitted that they were in the process of obtaining approval from the Chief Wild Life Warden for the operation of your said mine.

WHEREAS, this Board was subsequently in receipt of a letter dated 15/04/2011 from you, wherein you have enclosed a copy of approval of the Chief Wild Life Warden, bearing no. 6-13(172)-97-FD/161 dated 11/04/2011 issued by the Dy. Conservator of Forests, Forest Department, Govt. of Goa for mining in T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa.

WHEREAS, in light of the aforestated approval of the Chief Wild Life Warden, dated 11/04/2011, the Board had granted your mine unit renewal of Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, bearing no. 6/1878/09-PCB/9784 dated 21/04/2011 and the renewal of Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 bearing no. 5/2758/05-PCB/9783 dated 21/04/2011.

WHEREAS, the Board is now in receipt of a copy of a letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 from the Dy. Conservator of Forests, Forest Department, Government of Goa, wherein it is stated that the approval of the Chief Wild Life Warden bearing no. 6/13-(172)-97-FD/161 dated 11/04/201, for mining T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, stands cancelled with immediate effect.

WHEREAS, the Goa State Pollution Control Board at its 101st meeting held on 08/07/2011, had decided as follows;

a. Applications for renewal of Consent to operate as submitted by the Mining units under the Water Act and the Air Act can be considered and granted by the Board subject to the compliance of the pollution control norms. A condition should be incorporated in the Consent as follows:-

> "The mining company should comply with all the conditions laid down in the environment clearance issued by the Ministry of Environment and Forests, Government of India. The mining company should obtain approval from the Chief Wildlife Warden and clearance under the Forest (Conservation) Act, wherever required by the Environmental Clearance of the respective mining units, and submit copies of the same to the Board for records."

b. It is further resolved to issue notice of suspension of mining operations to all mining units who have failed to produce the NOC/approval from the Chief Wildlife Warden and/or permissions under the Forest (Conservation) Act, 1980, as the case may be, till such time as the required documents are produced before the Board.

NOW, THEREFORE, in light of the cancellation of the approval of the Chief Wild Life Warden for mining activity in T.C. no. T.C. no. 84/52 of Pale Village, Bicholim Taluka, North Goa, as conveyed by the Dy. Conservator of Forests, Forest Department, Government of

Goa, vide letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 and in light of the decision taken by the Board at its 101st meeting held on 08/07/2011, as stated above, the management of Jaquela Ou Jacadevicho Mollo iron ore mine, located at T.C. no. 84/52, Village Pale, Bicholim Taluka, North Goa, is hereby directed to immediately suspend all mining operations at your said mine unit bearing T.C. no. 84/52, Village Pale, Bicholim Taluka, North Goa, till such time as valid approval from the Chief Wild Life Warden, for operation of your mine is submitted to this Board.

You are further directed to submit a compliance report to this office with regard to the aforestated directions, within a period of seven days from the date of receipt of these directions.

TAKE NOTE that failure to comply with the aforestated directions, will compel this Board to initiate stringent legal action against you, in accordance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

Member Secretary
For Goa State Pollution Control Board.

To,
M/s Bandekar Bros. Pvt. Ltd.
(Jaquela Ou Jacadevicho Mollo iron ore mine)
Post Box no. 11
Suvarn Bandekar Bldg.
Vasco da Gama, Goa.

c.c. to:

1.	The Collector, North Goa District, Panaji Goa ..... who is directed to ensure that all mining operations at T. C no. 84/52, Village Pale, Bicholim Taluka, North Goa are suspended with immediate effect, until further orders.
2.	The Director, Dept. of Science, Technology & Environment, Opp. Saligao Seminary, Saligao, Bardez Goa.
3.	The Addl. Principal Chief Conservator of Forests, Govt. of Goa. Old Passport Office Bldg., Panaji Goa.
4.	The Regional Officer, Ministry of Environment and Forests (Regional Office (Southern zone), Kendriya Sadan, 4th floor, E & F Wing, 17th Main Road, 2nd Block, Kormangalam, Bangalore 5600034.
5.	The Chief Engineer, Water Resource Dept., Govt. of Goa, Junta House, Panaji Goa.
6.	The Director, Dte. of Mines and Geology, Govt. of Goa, Udyog Bhawan, Panaji Goa..... for necessary action
7.	Office Copy 8. Guard file.

Annexure 4

ITEM NO.50 COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 460 OF 2004

GOA FOUNDATION Petitioner(s)

VERSUS

UNION OF INDIA Respondent(s)

(With appln(s) for stay and c/delay in filing affidavit and directions and intervention and impleadment and modification and ad-interim ex-parte direction/clarification and seeking permission to bring additional document on record and office report)

WITH W.P.(C) NO. 91 of 2005
(With appln. for interim directions and office report)

Date: 04/12/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s) Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat, Adv
Dr. A. Francis Julian, Adv.
Mr. Sumit Kumar, Adv.
Mr. Sanjeev K. Trivedi, Adv.
Mr. Anil Jain, Adv.
Mr. K. Arunesh, Adv.
for M/S Arputham,Aruna & Co., Advs.

For Applicants
-Salgaocar Bros. (P) Ltd.:
Mr. K.K. Venugopal, Sr.Adv.
Mr. Pratap Venugopal, Adv.
Mr. E. Venu Kumar, Adv.
Mr. Harshad Hameed, Adv.
for M/s. K.J. John & Co., Advs.
Mr. A.N.S. Nadkarni, Adv.

Mr. Pratap Venugopal, Adv.
Mr. Malkarnekar, Adv.
Mr. Harshad Hameed, Adv.
Mr. E.Venu Kumar, Adv.
for M/s. KJ John & Co., Advs.

For Intervenor: Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Ms. Shally b. Maheshwari, Adv.

For NATCO Pharma: Mr. S.Chandra Shekhar, Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr.Adv.
Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Adv.
Mr. Yashraj Deora, Adv.
Mr. Mannoj Mehta, Adv.
for M/s. K.L. Mehta & Co., Advs.

Union of India: Mr. G.E. Vahanvati, S.G.
Mr. Vikas Sharma, Adv.
Mr. Shilpa Singh, Adv.
Mr. R.C.Kathiya, Adv.
Mrs. Anil Katiyar, Adv.

For Haryana: Mr. Ajay Siwach, AAG.
Mr. Manjit Singh, AAG.
Mr. T.V. George, Adv.

Mr. Bharat Sangal, Adv.
Mr. R.R.Kumar, Adv.
Mr. Samyadip Chatterji, Adv.
Ms. Suchita Sharma, Adv.

For TATA Steel: Mr. Gopal Jain, Adv.
Mr. R.N. Rakanjawala, Adv.
Mrs. Nandini Gore, Adv.
Mr. Manik Karanjawala, Adv.

For Goa SPCB &
Sec.Env., St.of Goa: Mr. Bhavanishankar V. Gadnis, Adv.
Mrs. B. Sunita Rao, Adv.
Mr. Aruneshwar Gupta, Adv.
M/s. Lawyer's Knit & Co., Advs.
Mr. Anip Sachthey ,Adv.
Mr. B. Partha Sarthy ,Adv.
Mr. M.K. Dua ,Adv.
M/S Gagrat & Co. ,Adv.
Mr. Sunil Kumar Jain ,Adv.
Mr. Rakesh K. Sharma ,Adv.

Ms. Praveena Gautam ,Adv.
Mr. Nikhil Nayyar, Adv.
Mrs. Prabha Swami, Adv.

UPON hearing counsel the Court made the following

ORDER

The order dated 16th October, 2006 refers to a letter dated 27th May, 2005 which was addressed by the Ministry of Environment and Forests (MoEF) to the Chief Wildlife Wardens of all States/Union Territories requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. The order passed on that date was that MoEF shall file an affidavit stating whether the proposals received pursuant to the letter of 27th May, 2005 have been referred to the Standing Committee of National Board for Wildlife under the Wild Life (Protection) Act, 1972 or not. It was further directed that such of the States/Union Territories who have not responded to the letter dated 27th May, 2005 shall do the needful within four weeks of the communication of the directions of this Court by the Ministry to them.

It seems that despite the letter dated 27th May, 2005 and despite the Ministry having issued reminders and also bringing to the notice of the States/Union Territories the orders of this Court dated 16th October, 2006, the States/Union Territories have not responded. However, we are told that the State of Goa alone has sent the proposal but that too does not appear to be in full conformity with what was sought for in the letter dated 27th May, 2005.

The order earlier passed on 30th January, 2006 refers to the decision which was taken on 21st January, 2002 to notify the areas within 10 km. of the boundaries of national parks and sanctuaries as eco-sensitive areas. The letter dated 27th May, 2005 is a departure from the decision of 21st January, 2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the

importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1972.

The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27th May, 2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January, 2002, namely, notification of the areas within 10 km. of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.

The MoEF would also refer to the Standing Committee of the National Board for Wildlife, under Sections 5 (b) and 5 (c) (ii) of the Wild Life (Protection) Act, the cases where environment clearance has already been granted where activities are within 10 km. zone.

List the matter after eight weeks.

(N. Annapurna) 5/12/06
Court Master

(V.P. Tyagi) 5/12/06
Asstt. Registrar.

23
Annexure 5 colly

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Petitioner

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Fereira, Asst. Solicitor General for respondents No.1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents No. 3 to 5.
Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 17th November, 2011

P.C.:-

An affidavit filed on behalf of respondents No.1 and 2 is taken on record. An affidavit filed on behalf of the petitioners is also taken on record.

2. Mr. Kantak, the learned Advocate General appearing for respondents No.3 to 6 states that the order dated 23/09/3022 which is impugned in this writ petition shall be withdrawn. He further states that upon withdrawal of the said order, respondent No.6 shall pass appropriate orders, within a period of one week. In view of the statement made by the learned Advocate General, Mr. Coelho Pereira, the learned Senior Advocate appearing for the petitioners seeks leave to withdraw the petition. He further seeks liberty to file

appropriate proceedings.

3. In view of the above, the writ petition is allowed to be withdrawn, with liberty as prayed. All contentions of the petitioners in this petition are kept open.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 1022 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. V. Braganza, Advocate for the applicant.

Mr. C. A. Ferreira, Assistant Solicitor General for respondent nos. 1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Additional Government Advocate for respondent nos. 3 to 5.

Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 22nd November, 2011

P.C.

Heard Mr. J. E. Coelho Pereira, learned Senior Advocate for the applicant, Mr. C. A. Ferreira, learned Assistant Solicitor General for respondent nos. 1 and 2 and Mr. S. S. Kantak, learned Advocate General for respondent nos. 3 to 5.

2. By this application, the applicant seeks correction of order dated 17.11.2011. In para 2 at lines 2 and 3 instead of "order dated 23.9.2011 which is impugned in this Writ petition shall stand withdrawn," it is mentioned that 'order dated 23.9.3022 which is

impugned in this Writ petition shall be withdrawn.This is not disputed by Mr. C. A. Ferriera, learned Assistant Solicitor General and Mr. S. S. Kantak, learned Advocate General. Therefore, order dated 17.11.2011 stands modified accordingly.

3. Applicant to act on the duly authenticated copy of this order.

A. P. LAVANDE, J.

U. V. BAKRE, J.

vn

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos. : 91-0832-2438567, 2438528
2438563, 2438550.
Tel./Fax No. : 0832-2438528
Email : goapcb@yahoo.com
goapcb@rediffmail.com
website : www.goaspcb.gov.in

Dempo Towers,
EDC Patto Plaza,
Panaji, Goa - 403 001.

By Registered A.D
MOST URGENT
HIGH COURT MATTER

No. 5/2758/05-PCB/ 5953

29/11/2011

REVOCATION OF DIRECTIONS ISSUED UNDER SECTION 31A OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981 AND UNDER SECTION 33A OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974.

WHEREAS, in light of the cancellation of the approval of the Chief Wild Life Warden for the mining activities in T.C. no. 84/52, located at Pale Village, Bicholim Taluka, North Goa, as conveyed by the Deputy Conservator of Forests, Forest Department, Govt. of Goa, to this Board, vide letter bearing no. 6/13-(172-97-FD/4004 dated 23/09/2011 and in light of the decision taken by the Goa State Pollution Control Board at its 101st meeting held on 08/07/2011, the Goa State Pollution Control Board vide directions bearing no. 5/2758/05-PCB/4575 dated 04/10/2011 issued under section 31A of the Air (Prevention and Control of Pollution) Act, 1981 and under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 had directed the management of Jaquela Ou Jacadevicho Molo iron ore mine bearing T.C. no. 84/52, located at Pale Village, Bicholim Taluka, North Goa to immediately suspend all mining operations at the said mining unit, till such time as valid approval from the Chief Wild Life Warden for operation of the mine is submitted to the Board.

WHEREAS, the Hon'ble High Court of Bombay at Goa vide order dated 17/11/2011 passed in W.P. no. 633/2011, subsequently modified vide order dated 22/11/2011, passed in M.C.A no. 1022/2011 in W.P. no. 633/2011, was pleased to record the statement that the letter bearing no. 6/13-(172-97-FD/400 dated 23/09/2011 issued by the Deputy Conservator of Forests, Forest Department, Govt. of Goa), shall stand withdrawn. Vide the said order, the Hon'ble High Court also recorded the statement that upon withdrawal of the said order, the Respondent no. 6 (i.e. the Goa State Pollution Control Board) shall pass appropriate orders within a period of one week.

Copies of these orders are enclosed herewith as Annexure A colly.

WHEREAS, perusal of orders dated 17/11/2011 passed in W.P. no. 633/2011, subsequently modified vide order dated 22/11/2011, passed in M.C.A no. 1022/2011 in W.P. no. 633/2011, indicates that the order of Cancellation of the approval of the Chief Wild Life Warden for the mining activities in T.C. no. 84/52, located at Pale Village, Bicholim Taluka, North Goa, as conveyed by the Deputy Conservator of Forests, Forest Department, Govt. of Goa, to this Board, vide letter bearing no. 6/13-(172)-97-FD/4004 dated 23/09/2011 stands withdrawn.

NOW THEREFORE in light of the above, in light of the decision taken by the Board at its 101st meeting held on 08/07/2011 and in exercise of the powers vested in the Board under section 31 A of the Air (Prevention and Control of Pollution) Act, 1981 and under section 33A of the Water (Prevention and Control of Pollution) Act, 1974, the directions bearing no. 5/2758/05-PCB/4575 dated 04/10/2011, issued by the Goa State pollution Control Board, hereby stands revoked.

Issued on this 29th day of November, 2011.

Member Secretary
For Goa State Pollution Control Board

To,
M/s Bandekar Bros. Pvt. Ltd.
(Jaquela Ou Jacadevicho Mollo iron ore mine)
Post Box no. 11
Suvarn Bandekar Bldg.
Vasco da Gama, Goa.

c.c. to:

1.	The Collector and District Magistrate, North Goa District, Panaji Goa ..... for necessary action
2.	The Director, Dept. of Science, Technology & Environment, Opp. Saligao Seminary, Saligao, Bardez Goa... for information
3.	The Addl. Principal Chief Conservator of Forests, Govt. of Goa, Old Passport Office Bldg., Panaji Goa. ..... for necessary action
4.	The Deputy Conservator of Forests, Monitoring and Evaluation, Forest Department, Govt. of Goa, Junta House, 18th June Road, Panaji, Goa. .. for necessary action.
5.	The Regional Officer, Ministry of Environment and Forests (Regional Office (Southern zone), Kendriya Sadan, 4th floor, E & F Wing, 17th Main Road, 2nd Block, Kormangalam, Bangalore 5600034. ... for information
6.	The Chief Engineer, Water Resource Dept., Govt. of Goa, Junta House, Panaji Goa. ... for information
7.	The Director, Dte. of Mines and Geology, Govt. of Goa, Udyog Bhawan, Panaji Goa..... for necessary action
8.	Office Copy 9. Guard file.

29

Annexure 7 colly

Claude Alvares
G-8 St Britto's Apts.,
Feira Alta, Mapusa 403507 Goa.
8th December 2011

To:

The Public Information Officer
Pollution Control Board
Panaji, Goa

Sub: Information sought under Right to Information Act

Dear Sir,

Closure/suspension order issued to M/s. Bandekar Mines (TC No.84/52) has been recalled/withdrawn by the Pollution Control Board on or around 30.11.2011.

Please provide the undersigned with copy of order of Chief Wildlife Warden withdrawing his cancellation order dated 23.09.2011 in respect of wildlife NOC issued by him to the mining lease.

Application fee of Rs. 10 is enclosed.

Yours sincerely,

(Claude Alvares)

30

14/12/2011

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos. : 91-832-2438567, 2438528
2438563, 2438550.
Tel / Fax No. : 0832-2438528
Email : goapcb@rediffmail.com

Dempo Towers, 1st Floor,
EDC Patto Plaza,
Panaji, Goa 403 001.

No. 8/33/08-PCB/Vol. IX/ 6206 09/12/2011

To,
The Public Information Officer,
Office of the Chief Conservator of Forests,
Old Passport Office Building,
Panaji - Goa

Sub: Transfer of application under the Right to Information Act, 2005.

Sir,

Please find enclosed herewith a copy of the application made by Shri. Claude Alvares, dated 08/12/2011, requesting information under Right to Information Act, 2005.

Since the information requested by the applicant is not available with this Board, as the same is coming within the purview of your Department, this application is transferred to you as per the provisions of sub section (3) of section 6 of the Right to Information Act, 2005.

Yours faithfully,

Member Secretary/PIO
For Goa State Pollution Control Board

c.c. to:

Shri. Claude Alvares,
G-8, St, Britto Apartments,
Feira Alta, Mapusa Goa.

UNDER CERTIFICATE OF POSTING

GOVERNMENT OF GOA
OFFICE OF THE ADDL. PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
Forest Department, Dayanand Smruti Building.
Gomantak Maratha Samaj, Swami Vivekanand Road
Panaji (GOA) 403 001
Ph. (0832) 2225926 Fax: 2224747

MOST URGENT **RIGHT TO INFORMATION ACT, 2005**

No. 9-21(32)-05/FD/11-12/5923 Dated: 6.01.2012

To,
Dr. Claude Alvares
G-8, St. Britto's Apartments
Feira Alta, Mapusa Goa 403 507

Sub: Transfer of application under the Right to Information Act, 2005

Ref: Your Letter dated 08.12.2011 addressed to Goa State Pollution Control Board, Panaji.

Sir,

With reference to the subject cited above, this is to inform you that till date the order for withdrawing the cancellation of Chief Wildlife Warden Clearance issued to M/s. Bandekar Bros. for their mine under T.C. No. 84/52 at Pale village in Bardez Taluka has not been issued.

Yours faithfully,

Sd/-

(Debendra Dalai)
Public Information Officer
C/o Addl. Prin. Chief Conservator of Forests
PANAJI – GOA

Copy to: The Goa State Pollution Control Board, Dempo Towers, 1st Floor, EDC Patto Plaza, Panaji – Goa 403 001 for information

Annexure 8

The Goa Foundation

G-8, St Britto's Apts.,
Feira Alta, Mapusa 403507 Goa.
Email: goafoundation@gmail.com

31.1.2012

To:

Member Secretary
Goa State Pollution Control Board,
Dempo Towers, Patto,
Panaji, Goa.

Subj: Revocation of suspension order relating to Bandekar Mines (TC 84/52)

Dear Sir,

The consent to operate under the Air Act and Water Act issued by you to M/s Bandekar Brothers Pvt Ltd (TC 84/52) was suspended by you by an order dated 4.10.2011. This was done after the Chief Wildlife Warden (CWLW) on 23.9.2011 cancelled the NOC issued by him in respect of the operation of the said mine and communicated the order of cancellation to the Board.

The procedure followed by you was in line with the resolution of the Goa Pollution Control Board dated 8.7.2011.

Writ Petition filed by M/s Bandekar Bros Pvt Ltd., challenging the suspension order, was disposed of by the High Court by order dated 17.11.2011/22.12.2011 which is self-explanatory.

Under RTI, we have been informed by the Forest Department that the CWLW has not withdrawn his cancellation order dated 23.09.2011. However, on 29.11.2011, the Board has, in violation of its own resolution dated 8.7.2011, revoked its order of suspension and allowed the mine to resume operations.

As the revocation order is in violation of the Board's own resolution and is also not in conformity with the order dated 17.11.2011/22.12.2011 of the Hon'ble High Court, you are hereby called upon to cancel the order of revocation with immediate effect.

We do look forward to your immediate response in the matter.

Sincerely,

(Dr Claude Alvares)
Director

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

PIL Writ Petition No.___ of 2012

The Goa Foundation)... Petitioners
v/s
Goa State Pollution Control Board & ors)... Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr Claude Alvares, Indian national, aged 63 years, resident of Parra, Bardez, Goa, do solemnly state on oath as under

1. I have today filed a writ petition in public interest for the reliefs sought therein.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioner is ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous considerations or that it lacks *bona fides*.

4. The petitioner shall disclose the source of its information, leading to the filing of the PIL, if and when called upon by the Court, to do so.

5. I solemnly declare and say that what has been stated in paragraphs 1(p), 2-10, 11(p), 12, 13(p), 14, 16, 18, 20, 22 are true to the best of my knowledge and what is stated in paras 1(p), 11(p), 13(p), 15, 17, 19, 21 are in the nature of legal submissions and/or inferences of facts, which I believe to be true. The documents annexed are true copies of their originals.

Solemnly affirmed at Panaji

this the 9th day of February, 2012 Deponent

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IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

WRIT PETITION NO. 4/2012

Goa Foundation ... **PETITIONER**

v/s

Goa State Pollution Control Board and Others ... **RESPONDENTS**

AFFIDAVIT IN REPLY OF

RESPONDENT NO. 5

I, Santosh V. Mahale, son of Vishnu S. Mahale, 39 years old, married, Indian National, residing at House No. 236/14, Jetty, Harbour Mormugao- Goa, the duly constituted Power of Attorney holder of Bandekar Brothers Private Limited Company incorporated under the Companies Act 1956 and having its registered office at Suvarn Bandekar Building, Swatantra Path, Vasco-da-Gama, Goa, the Respondent no. 5 herein, duly authorized in pursuance to the Resolution of the Board of Directors dated 19-03-2012, and being conversant with the facts of the case, do hereby on solemn affirmation beg to state and submit as under:

1. I say that on receipt of the notice from this Hon'ble Court, for appearance at the stage of admission of the abovesaid PIL Writ Petition, I have been instructed to file this Affidavit in reply, to oppose the admission of the petition and the interim reliefs sought for, suffice it to say, that I have not specifically traversed each and every paragraph of the Petition, and the facts which are

not specifically admitted in this affidavit and/or which are contrary to the facts setout by me in this affidavit may be taken as denied. I say that should this Hon'ble Court deem fit to issue rule in this petition, I hereby seek leave of this Hon'ble Court to file a detailed affidavit to deal specifically with each and every averment contained in the petition requiring rebuttal and/or which may be required to be dealt with in addition to what is setout hereinafter. At the outset I deny that the petition of the Petitioner is pro bono publico and is a Public Interest Litigation as alleged. As a fact for reasons best known to the Petitioner's Members the Petitioner has filed the above said petition inter alia against the Respondent no. 5, as a pick and choose situation to harass the Respondent no. 5, and embargo the rights of Respondent no. 5 in carrying on trade in mining, which the Respondent no. 5 has been lawfully carrying on and this fact is apparent for the insistence and persistence with which the Petitioner is pursuing remedies against the Respondent no.5 under the guise of public interest to somehow secure the closure of the mine of the Respondent no. 5. I say so for the following:

2. The Petitioner instituted PIL No. 27/2011 and arrayed only the Respondent no. 5 herein, one M/s. N. S. Narvekar and one Mrs. Maria de Lourdes Filomena Figueiredo de Albuquerque as Respondents, seeking inter alia for a Writ setting aside the Wildlife approvals of the said Respondents and pending the hearing and final disposal of the petition, staying the operation of the Wildlife approvals listed in para 25(a) i.e. the mine of Respondent no. 5 and the aforesaid two persons referred and also seeking that pending the hearing and final disposal of the petition, for an order staying the mining operations or Consent issued and listed in para 25(b) of the petition i.e. in so far as the Respondent no. 5 and the aforesaid two persons are concerned, when in terms of prayer (c) of the petition, the Petitioner sought for a direction from this Hon'ble Court, directing the Ministry of Environment to refer to

environmental clearances granted by it post 04-12-2006, for activities within 10 kms. from the boundaries of Wildlife Sanctuaries to the Standing Committee of the Board of Wildlife.

3. The Petitioner's claim in the said PIL Writ Petition No. 27/2011 was that in view of the orders of the Hon'ble Supreme Court dated 4-12-2006, afore referred, that cases of operating Mining Leases falling within 10 kms. from the boundary of Wildlife Sanctuaries were required to be referred to the Standing Committee of the National Board of Wildlife. Though the Petitioner in the said petition sought inter alia reliefs in terms of prayer (a) in the petition that all other cases be referred to National Board of Wildlife, pending the hearing and final disposal of the petition in so far as this Respondent and the other two persons afore referred are concerned, the Petitioner sought for directions that the interim reliefs in terms of prayer (b) and (c) of the petition be granted. I say that apart from the fact that the petition is malafide, the petition even otherwise on facts pleaded does not disclose any cause of action and is infact a colourable exercise by the Petitioners on a claim of public interest. The petition infact suffers from suppressio veri, in as much as the Petitioners have willfully concealed the truth and certain vital and relevant facts and as such from facts pleaded, the Petitioners do not deserve any relief from this Hon'ble Court and as such the petition deserves to be dismissed in limine on this count itself.

4. The Respondent no. 5 herein filed an affidavit in the said petition PIL Writ Petition 27/2011 dated 18-10-2011, and pointed out the conduct of the Petitioner in choosing and picking inter alia the Respondent no. 5 herein for reliefs sought for in terms of prayer (b) and (c) of the said Writ Petition. It was only after the said affidavit that the Petitioner herein arrayed 30 lessees of Mining Leases as Respondents in the said petition and in fact gave up the

plea for interim reliefs in the said petition, as a fact when to the knowledge of the Petitioner, the Petitioner knows that still there are about 118 lessees of Mining Leases within the 10 kms, boundary of Wildlife Sanctuaries within the State of Goa. The Petitioner has left them out from the purview of this petition and is still pursuing by means of this petition under reply a tirade against this Respondent, for reasons best known to the Petitioner by filing this petition under the garb of public interest, as a fact, when to the knowledge of the Petitioner, the present PIL Writ Petition filed by the Petitioner styled to be a Petition in Public Interest is in fact not maintainable.

5. After the Petitioner filed the afore referred petition, the Wildlife clearance granted to the Respondent no. 5 by the Chief Wildlife Warden vide letter No. 6-13-(172)-97-FD/161 after following the due process of law on 11-04-2011, was cancelled by strike of pen without giving any notice to this Respondent, purportedly pursuant to the letter addressed to the Chief Wildlife Warden by the Ministry of Environment and Forest, without any notice, and/or hearing to the Respondent no. 5, as the only and isolated case. The Respondent no. 5 was compelled to move this Hon'ble Court in Writ Petition No. 633/2011 to challenge the action of the Respondent no. 2 and Respondent no. 1 cancelling and suspending the approval and/or consent respectively of Respondent no. 5 under the Wildlife Protection Act and under Section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 and under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 respectively.

6. The said petition was filed by the Respondent no. 5 and on 10-10-201, the Respondent no. 5 sought interim reliefs in the said petition. In fact both the petitions, namely the Petition filed by the Respondent no. 5 herein, namely Writ Petition No. 633/2011 and the said PIL Writ Petition No. 27/2011 filed by

the Petitioner herein were ordered, by Order dated 15-11-2011 to be heard together.

7. The State Government filed an affidavit in the said petition of the Chief Wildlife Warden, disputing the claim of the Petitioner in PIL Writ Petition No. 27/2011 and pointing out inter alia that cases where Wildlife clearances were given by the Chief Wildlife Warden to Mining Leases falling within 10 kms. from the boundaries of Wildlife Sanctuaries, were to be referred to the Chief Wildlife Wardens. The said affidavit dated 11-10-2011 by Shri Ravi Horo, the Conservator of Forest, Forest Department filed in the said PIL Writ Petition No. 27/2011 sets out clearly the stand of the State Government in so far as the claim of the Petitioner in the said petition are concerned. I crave leave to refer and rely on the affidavit filed by the Chief Wildlife Warden in the said Writ Petition as and when produced.

8. In keeping with the stand taken by the State Government as set out in the said affidavit dated 11-01-2011, when the matter for interim relief came up for hearing before this Hon'ble Court on 28-10-2011, on behalf of the State Government, a statement was made on the 22-11-2011, in fact after the matter for interim relief was argued before the Division Bench, after in fact the Respondents no. 1 and 2 have filed affidavits in the matter, where the Respondents no. 1 and 2, through the Chief Wildlife Warden setout the stand of the State Government, reiterating the stand taken in the affidavit filed in the said Writ PIL Petition No. 27/2011 to the effect, that the Order dated 23-09-2011, impugned in the said Writ Petition stood withdrawn and that upon withdrawal of the said Order, the Respondent no. 6 i.e. the Pollution Control Board would pass appropriate orders within a period of one week. It was on the basis of the said statement which was subsequently corrected by Order dated 22-11-2011, that the Respondent no. 5 withdrew

the said petition. In fact the Petitioner was very much present at the time of passing of the said orders, as the Petitioner had filed an application for intervention in the said petition which was disposed off by Order dated 15-11-2011.

9. The Petitioner in fact has filed this petition on false facts and by suppression of relevant and material facts, to give an impression and create a case that the statements were made and orders were passed by the Respondent no. 1 in a vulnerable manner, without application of mind, and as such, the Petitioner is continuing the tirade against the Respondent no. 5, through the instrumentality of this petition, seeking to challenge the orders passed by this Hon'ble Court, which the Petitioner is not entitled to do.

10. It is in this set of facts that the Respondent no. 5 states that the action of the Petitioner in filing this petition is malafide and in fact being prosecuted to the knowledge of the Petitioner with false facts and on suppression of facts. As a fact the Petitioner has annexed to the petition a letter obtained under the Right to Information Act, 2005, which is at page 31 of the petition, which is addressed to the Secretary of the Petitioner, in respect to a letter dated 08-012-2011, at page 29, is being used by the Petitioner to mislead this Hon'ble Court and to contend, as contended in para 13 and 14 of the application of the Petitioner.

11. The Petitioner states that the Petitioner who has access to files of the Respondent No.1 has means to access under the Right to Information Act, and has on the basis of the letter addressed to the Respondent no. 1, obtained a reply to it to create a cause of action, which otherwise the Petitioner does not have, to target the Respondent no. 5 in this petition, knowing fully well that the Order of the Chief Wildlife Warden has been

withdrawn and this Hon'ble Court has recorded its withdrawal in its learned Order dated 17-11-2011 read with Order dated 22-11-2011, the Petitioner has deliberately withheld from this Hon'ble Court the notings on the file of the Respondent No.1 dated 24-11-2011 and 25-11-2011 and also have withheld from this Hon'ble Court the fact that the Respondent no. 5 had to move this Hon'ble Court in Writ Petition No. 633/2011, M.C.A. No. 1032/2011, for directions to Respondent no. 6 in the said petition, directing the Respondent no. 6 to forthwith withdraw the Order dated 04-10-2011, and grant consent to the Respondent no. 5 under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 and under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974. and/or restore the renewal and consent to operate under the Air and Water Act by application dated 29-11-2011 after which the Respondent No. 1 issued the Revocation Order of Directions issued under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 and under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974.

12. It is for these reasons that the Respondent no. 5 states and submits that the said action of the Petitioner by the present petition is malafide and not in public interest and in fact the Respondent no. 5 feels that the entire action against the Respondent no. 5, without following any principles of natural justice to cancel the NOC granted to the Respondent no. 5 by the Chief Wildlife Warden and Consent to operate under the Air and Water Act by Respondent no. 1 has been at the instance of the Petitioner and this appears to be obvious from the letter at Annexure-8 to the petition. The Respondent no. 5 annexes hereto the notings on the file of Respondent no. 1 in the matter of the said revocation of the Orders, which the Petitioner has deliberately suppressed from this Hon'ble Court, which the Respondent no. 5 obtained from the Right to Information Act.

13. The fact that the Petitioner's action is targeted only against the Respondent no. 5 is apparent from the fact that the Petitioner is otherwise well aware that no mine in the State of Goa has clearances from the National Board of Wildlife.

14. The Petitioner states that on this count alone, leave aside the fact that the petition is otherwise not maintainable, the same should be rejected in limine, as the same does not espouse in public interest or rather espouse a personal animus of the Petitioner against Respondent no. 5.

15. Without prejudice to the above, the Respondent beg to state that, at the outset the petition is not maintainable, infact is an abused of process of Hon'ble High Court. By this petition the petitioner is seeking a review of the Hon'ble Court Orders passed in writ petition No.633/2011 under the guise of this petition. The petitioner has no locus standing to do so. That the petitioner though caused as a PIL, is not a PIL for reasons afore stated. The petitioner discloses no cause of action. Infact the petitioner suffers from suppression varies and therefore deserves to be dismissed in limine contents as stated with causes:

Now dealing with specific pleadings the Respondent no. 5 begs to state and submit as below:

16. With regard to contents of para 1of the Petition, the Respondent No. 5 respectfully submits that the Petitioner is not entitled to challenge the said orders issued by Goa State Pollution Control Board, no cause is shown for

challenge of the Orders. It is denied that the revocation orders is contrary to the decision/resolution of the board. It is stated and submitted that there is no legal bar for mining within the 10 kms from the boundary of the wildlife sanctuary. In that sense of the term, the Petitioner does not discharge as legal infringed. The content of the para 1 are denied.

17. With regard to contents of para 2, it is denied that the Petitioner is an environmental NGO as alleged. It is denied that the Petitioner has any public interest for enforcement of the provisions of environment and has approached this Hon'ble Court and the Hon'ble Supreme Court over the past two decades as alleged. It is denied that the annual income of the Petitioner is Rs.4,09,944/- for the year 2010-2011. It is denied that the petition is a Public Interest Litigation. The contents of para no.2 are denied.

18. With regard to contents at para 3, it is denied that this petition is filed by any public interest and also the Petitioner does not have any personal interest in the matter. It is denied that the petition is a Public Interest Litigation, filed in the interest of protecting the environment and wildlife of the State for rampant illegal mining. It is denied that the Respondent is involved in any rampant and illegal mining and violation of any Order of the Hon'ble Supreme Court as alleged and/or the permission granted to the Respondent as alleged. Contents of para 3 are denied. It is denied that the entire cost and charges are being borne by the Petitioner as alleged. It is denied that the subject matter of the petition is pro bono publico as alleged. Contents of para .4 are denied.

19. With regard to para 5, I deny that thorough research has been conducted in the matter and all relevant material has been annexed to the petition as set out above the petition is supressio veri.

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20. With regard to contents of para 6, there is no cause of action whereby the Petitioner discloses the averments, therefore the contents of para 6 are misleading infact the Petitioner should be relegated to cause of action.

21. With regard to contents at para 8, we do not admit that the resolution of the Goa State Pollution Control Board was taken at its 101st meeting held on 08/07/2011, which has been informed to this Hon'ble Court already by way of affidavit in PIL Writ Petition No.11/2011. The contents at para 8 are therefore denied.

22. With regard to contents of para 9, we do not admit that this Hon'ble Court directed that the resolution at (b) be carried out with respect to 19 mining leases and an action taken report was subsequently filed by the State Govt. we are not party to the said State Govt. Petition. The contents at para 9 are therefore denied.

23. With regard to contents of para 10, I deny that by letter dated 30.5.2011, the Ministry of Environment and Forests objected to the grant of the NOC, on the ground that the clearance was not in accordance with the order of the Supreme Court of India dated 4/12/2006, in Writ Petition No.460/2004. I say that the order dated 4/12/2006, in Writ Petition no. 460/2004, is being misinterpreted and misread to this Hon'ble Court by the Petitioner. The cancellation of the wildlife clearance granted to the Respondent no.5, was the subject matter of the Writ Petition filed by the Respondent, namely Writ Petition no.633/201, so also was the suspension order of the Respondent no. 1. The said petition was disposed off by this Hon'ble Court by order dated 17-11-2011 and order dated 22-11-2011.

24. With regard to contents of para 11, the Hon'ble Supreme Court's Order in Writ Petition no. 460/2004 are being misread by the Petitioner. The Writ Petition no.27/2011 is filed with oblique motives. The said petition itself is ex-facie and not maintainable. The Writ Petition no. 633/2011 has been disposed off by this Hon'ble Court by Order dated 30-11-2011.

25. With regard to contents of para 12, the Petitioner to suit his case is misleading the orders so as to maintain this petition. The statement made by the learned Advocate General was to the effect that the order shall stand withdrawn which was reflected in the corrected order dated 22/11/2011, and the order annexed at annexure 5 collectively. Though the Petitioner has annexed the order at annexure 5 collectively, the Petitioner has designedly feigned ignorance of the order of this Hon'ble Court dated 22-11-2011, whereby certain errors which occurred in the order of this Hon'ble Court dated 17-11-2011, were corrected by this Hon'ble Court pursuant to the order dated 22-11-2011, which was passed in view of the application made by this Respondent seeking the requisite corrections which had cropped up in the order of this Hon'ble Court dated 17-11-2011, which fortifies the fact that the Petitioner is deliberately misreading and misinterpreting the orders of this Hon'ble Court in an attempt to mislead this Hon'ble Court in the present petition.

26. With regard to contents of para 13 the same are false and motivatedly made. The order of the Chief Wildlife Warden stood withdrawn pursuant to the statement made by the learned Advocate General on behalf of the State Government. It is denied that the board unilaterally revoked the order dated 29/11/2011. It is denied that the wildlife NOC still stands as cancelled and board has permitted the mine to operate.

With regard to contents at para 14, the letter dated 8/12/2011, addressed under RTI to the board is mischievously addressed to the board by the Petitioner, to create a cause of action. The reply was obvious which had to be read in the context of the orders passed by this Hon'ble Court. The Petitioner has deliberately omitted to produce and/or refer to the notings on the file of the Goa State Pollution Control Board, which the Respondent no.5 craves leave to refer and rely. The claim that no order has been passed and it has been confirmed on 6/01/2012 to the Petitioner is false and motivated. The contents at para 14 are truncated and stated by suppressing the true facts and drawing wrong conclusion to draw personal animus against the Respondent no.5 under a cause of PIL. Contents at para 14 are denied.

28. With regard to contents at para 15, it is denied that the revocation order is contrary to the resolution of the board. It is denied that the same is contrary to the environmental clearance which requires clearance under Wildlife Protection Act. It is denied that it is not in accordance with the statement made by the Advocate General before the Court on 17/11/2011. The petition is malafide and deserves to be dismissed in limine with exemplary cost. The statement of Advocate General has to be read with Court order dated 22/11/2011, which the Petitioner is omitting to read with obvious reasons.

29. With regard to contents of para 16, the Petitioner has suppressed vital documents from the files of Respondent no.1, the document obtained under Right to Information Act are meant to create a cause of action.

30. With regard to contents of para 17, it is denied that the Chief Wildlife Warden has revoked the clearance in deferment to the Supreme Court's order as alleged. The wildlife clearance which was withdrawn without any hearing or notice to this Respondent by an order dated 23-09-2011 stood restored,

pursuant to the statement recorded in the order of the learned Advocate General on behalf of the State Government dated 17-11-2011, read with order dated 22-11-2011. The order of the Respondent no.1, is not in defiance of the Supreme Court's Order and of the Apex Court's efforts to ensure that wildlife within the country is safeguarded. It is denied that the Petitioner is actually pursuing in compliance with the Apex Court order, passed in Writ Petition no.633/2011 it is denied that the consent is also at variance with the terms of the environment clearance.

31. With regard to contents of para 18, the annexure 8 has been addressed to Respondent no.1 with oblique motives in order to harass and target the Respondent no.5. The content at para 18 are therefore denied.

32. With regard to the contents of para 19 the petition discloses no cause of action.

33. With regard to contents of para 20, the Petitioner is not entitled to any of the reliefs as sought for in the petition or any other reliefs. The petition with respect deserves to be dismissed with exemplary cost and quashed.

I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated at para 1part, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11part, 12part, 13, 14, 15part, 16 part, 17 part, 18 part, 19 part, 20 part, 21part, 22part, 23 part, 24part, 25 part, 26 part,27 part,28 part, 29part, 30part, 31part, 32part, 33 part are facts true to my own knowledge and whatever stated at para 1part, 11part, 12part, 15part, 16 part, 17 part, 18 part, 19 part, 20 part, 21part, 22part, 23 part, 24part, 25 part, 26 part,27 part,28part, 29part, 30part, 31part,

32part, 33part are inferences of fact and/or submissions based on legal advise, which I believe to be true.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS 17TH DAY OF APRIL 2012 **DEPONENT**

Identified by me:

(Adv. Vledson Braganza)
Advocate for Respondent no. 5.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 978 of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation	)... Applicant
in	
Bandekar Bros.Pvt Ltd & anr	)...Petitioners
v/s	
Union of India and ors	)...Respondents

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Panaji, November 2011

Advocate for applicant

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No.978 of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation,
through its Secretary, Dr Claude Alvares,
Addr: Room 7, Above Mapusa Clinic,
Mapusa 403507 Goa,)... Applicant

in

1. Bandekar Bros.Pvt Ltd.,
Suvarn Bandekar Bldg,
Vasco-da-Gama, Goa

2. Mr S.R. Bandekar, residing at
Raj Tara, Opp. Tilak Gd,
Vasco-da-gama)...Petitioners

v/s

1. Union of India through
Ministry of Environment & Forests,
Paryavaran Bhavan, C.G.O. Complex,
Lodi road, New Delhi 110 003

2. Deputy Inspector General (WL),
Government of India
Ministry of Environment & Forests,
Wildlife Division,
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi 110 003

3. State of Goa through Under Secretary,
W/o at Secretariat, Alto Porvorim, Goa.

4. Chief Wildlife Warden,
Office of the Addl. Prin. CCF,
W/o at Dayanand Smiriti,
S.V. Road, Panaji, Goa

5. Deputy Conservator of Forests,
Monitoring & Evaluation,
Forest Department, w/o at Junta House
18 June Road, Panaji, Goa

6. Goa State Pollution Control Board
through Member Secretary, Dempo
Towers, Patto, Panaji, Goa)... Respondents

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No.978 of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation)... Applicant

in

Bandekar Bros.Pvt Ltd & anr)...Petitioners

v/s

Union of India and ors)...Respondents

Application for being made party respondent

May It Please Your Lordships:

1. Applicant is filing the present application to be joined as respondent in Writ Petition No.633/2011 as any order passed in the petition is likely to materially affect the case of the applicant in PIL W.P 27/2011 filed by the applicant.

2. Applicant also states that the issues in both W.P No.633/2011 and in PIL W.P 27/2011 stem from the same order of the Hon'ble Supreme Court dated 4-12-2006 in W.P 460/2006. Applicant is also the petitioner in W.P 460/2006 which was filled in the Apex Court. Hence applicant, when joined as respondent in these proceedings, is thereby enabled to challenge any order passed in this writ petition, if necessary, before the Hon'ble Apex Court.

3. Already, by order dated 20.10.2011, this Hon'ble Court has recorded the statement of the learned Advocate General that the government is reconsidering its decision to withdraw clearance / stop work order issued to

the petitioner in the light of the stand taken by the government in its affidavit filed in PIL W.P 27/2011.

4. For the aforesaid reasons, applicant is a necessary party in these proceedings. Applicant wishes to file its submissions and bring on record any documents that are relevant but may not have been brought on record by the petitioner.

5. Applicant therefore makes the following prayer:

Prayer:

Petitioner be directed to join the applicant as party respondent in the above writ petition and to supply a copy of the petition to the applicant.

For the above, the applicant is truly grateful.

Dated the 14th of November 2011 Advocate for the Petitioner

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No.978 of 2011
in
Writ Petition No.633 of 2011

The Goa Foundation)... Applicant

in

Bandekar Bros.Pvt Ltd & anr)...Petitioners

v/s

Union of India and ors)...Respondents

AFFIDAVIT IN SUPPORT OF THE APPLICATION

I, Dr Claude Alvares, Indian national, aged 63 years, Secretary, the Goa Foundation, abovenamed applicant, do solemnly state on oath as under

2. I solemnly declare and say that what has been stated in paragraphs 1 and 3 are true to the best of my knowledge and what is stated in paras 2, 4 and 5 are in the nature of legal submissions and/or inferences of facts, which I believe to be true.

Solemnly affirmed at Panaji
this the ___ day of November, 2011

Deponent

O/c (reply filed on 15/11/2011) 54

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 978/2011

in

Writ Petition no. 633 of 2011

The Goa Foundation)... **APPLICANT**
in
Bandekar Bros. Pvt. Ltd. & anr.)... **PETITIONER**

v/s

Union of India and Ors.)... **RESPONDENTS**

MAY IT PLEASE YOUR LORDSHIPS:

The Petitioner above named most respectfully begs to state and submit as under:

1. The Application of the Applicant is not tenable in law. The Petitioner is dominus litus. Infact the application of the Applicant does not disclose any cogent and tenable ground to seek any relief against the Petitioner, for being impleaded as a party Respondent in the present petition. It is denied that the issues in the present Petition and PIL W.P. No. 27/2011 from the order dated 04-12-2006, of the Hon'ble Apex Court in Writ Petition no. 460/2006 and consequently the question of any order in the present petition materially affecting the case of the Applicant in PIL W.P. No. 27/2011, does not arise.

15/11/11

2. The Petitioner states that infact the orders impugned by the Petitioner in Writ Petition no. 633/2011 are that of Respondent no. 5 dated 23-09-2011 and of the Respondent no. 6 dated 04-10-2011. The question of the Applicant being impleaded in the present petition which the Petitioners have filed with respect

does not arise and the application does not disclose any ground in law to seek impleadment in the Petitioner's petition. Infact the Petitioner in the petition has impleaded all necessary and proper parties to the petition including inter alia the Ministry of Environment and Forests. It is denied that the Applicant is a necessary party in the petition filed by the Respondent. Infact the Applicant has inter alia selectively targeted the Petitioner no. 1 in PIL W. P. No. 27/2011 purportedly filed by the Applicant on a claim of having filed the same in Public Interest.

3. The application of the applicant therefore deserves to be dismissed.

PANAJI-GOA
15-11-2011

PETITIONER

ADVOCATE FOR PETITIONER

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IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

MCA NO. 1022/2011

IN

WRIT PETITION NO. 633/2011

Bandekar Brothers Private Limited and Anr. ... PETITIONERS

v/s

Union of India & Ors. ... RESPONDENTS

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PANAJI-GOA

21-11-2011

ADVOCATE FOR PETITIONERS

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

MCA NO. 1022/2011

IN

WRIT PETITION NO. 633/2011

1) Bandekar Brothers Private Limited,
a Company registered under
the Companies Act 1956, through its
Managing Director Mr. Suvarn Rajaram
Bandekar with registered office at Suvarn
Bandekar Building, Swatantra Path,
Vasco-da-Gama, Goa.

2) Mr. Suvarn Rajaram Bandekar,
Shareholder and Managing Director
of the 1st Petitioner, residing at Rajtara,
Opp. Tilak Ground, Vasco-da-Gama, Goa. **... PETITIONERS**

v/s

1. Union of India,
Through the Secretary,
Ministry of Environment & Forest,
Paryavaran Bhawan,
C.G.O. Complex,
Lodi Road,
New Delhi 110 003.

2. Dy. Inspector General Wildlife,
Govt. of India,
Ministry of Environment & Forest,
Wildlife Division,
Paryavaran Bhawan,
C.G.O. Complex,
Lodi Road,
New Delhi 110 003.

3. State of Goa,
Through the Under Secretary,
Ministry of Environment & Forest,
with office at Secretariat,
Alto-Porvorim,
Bardez, Goa.

4. Chief Wildlife Warden,
Office of the Addl. Principal
Chief Conservator of Forest,
Department, with office at Dayanand Smruti,

(2)

(58)

S.V. Road,
Panaji, Goa.

5. Dy. Conservator of Forest,
Monitoring & Evaluation,
Forest Department, with office,
Junta House, 18th June Road,
Panaji, Goa.

6. The Goa State Pollution Control Board,
with office at Patto Plaza,
Dempo Towers, through
its Member Secretary, Panaji, Goa. ... **RESPONDENTS**

(Registered Addresses)

Application for Review of the Order of this Hon'ble Court dated 17-11-2011,

MAY IT PLEASE YOUR LORDSHIPS:

The Petitioners above named most respectfully beg to state and submit as under:

1. At the hearing of the petition on 17-11-2011, when the matter came to be listed in terms of the order of this Hon'ble Court dated 15-11-2011, at the stage of admission and ad-interim reliefs, staying the operation of the orders dated 23-09-2011 at Annexure-A and order dated 04-10-2011 at Annexure-Q of the Petition, this Hon'ble Court was pleased to dispose off the petition in view of the statement made by the Learned Advocate General on behalf of the Respondent no 3 to 5, to the effect that the order dated 23-09-2011 would stand withdrawn forthwith.

2. Infact on 17-11-2011, when the matter was listed before this Hon'ble Court, the Learned Advocate General made a categorical statement that Respondent No. 5 is withdrawing the impugned order dated 23-09-2011 annexed at Annexure A of the Writ Petition with immediate effect. The fact that the withdrawal of the impugned order dated 23-09-2011, annexed to the

Petition at Annexure A, was with immediate effect, was in response to a query put by this Hon'ble Court as regards the time frame within which the order dated 23-09-2011 would be withdrawn and in the background of the statement made by the Learned Advocate General on behalf of the Respondent no 3 to 5, to the effect that the order dated 23-09-2011 would stand withdrawn forthwith, the above Writ Petition was withdrawn on instructions of the Petitioner who was present in Court on 17-11-2011, with liberty to file appropriate proceedings with regard to other reliefs sought for in the Petition.

3. On perusal of the order (enclosed herewith) it appears that probably by inadvertence or by oversight what has been recorded in the Order of this Hon'ble Court dated 17-11-2011 is "that the Order dated 23.09.2011 which is impugned in this Petition shall be withdrawn." as opposed to the factual statement made by the Learned Advocate General that the Order dated 23.09.2011 would stand withdrawn forthwith with immediate effect and what was accordingly factually dictated in the open Court. It was only as regards Respondent No. 6, that the said Respondent no. 6 was to pass appropriate Orders within one weeks time from the Order of this Hon'ble Court dated 17-11-2011.

4. It is stated and submitted that accordingly, the Petitioners file the present application for Review and/or Speaking through the Minutes of the Order dated 17-11-2011, to the effect that the Impugned Order dated 23-09-2011 at Annexure A to the Petition stands withdrawn forthwith with immediate effect.

5. The Petitioners, therefore, submit that it is in the interest of justice, equity and fairplay that the Order of this Hon'ble Court be reviewed to record that the Impugned Order dated 23-09-2011 at Annexure A to the Petition stands

withdrawn forthwith with immediate effect, in terms of the Statement made by the Learned Advocate General at the hearing of the Petition on 17-11-2011.

6. If the present application is not granted, grave and irreparable harm and/or injury and/or losses which cannot be compensated in terms of money will ensue to the Petitioners, while if the present application is granted, no prejudice of whatsoever nature will be caused to the Respondents.

It is therefore **PRAYED:**

THAT the Order of this Hon'ble Court be reviewed/corrected to record that the Impugned Order dated 23-09-2011 at Annexure A to the Petition stands withdrawn forthwith with immediate effect, in terms of the Statement made by the Learned Advocate General at the hearing of the Petition on 17-11-2011.

PANAJI-GOA

21 -11-2011

PETITIONER

ADVOCATE FOR PETITIONER

AFFIDAVIT

I, Suvarn Rajaram Bandekar, 59 years old, Indian National, businessman, married, residing at Rajtara, Opp. Tilak Ground, Vasco-da-Gama, Goa, the Petitioner no. 2 herein and Shareholder and Managing Director of the Petitioner no. 1 herein, being conversant with the facts of the case, do hereby on solemn affirmation beg to state that whatever stated at Para 1 part, 2, 3, 4 and 6 part are

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facts true to my own knowledge and whatever stated at Para 1 part, 5 and 6 part are inferences of facts and/or submissions based on legal advise, which I believe to be true..

SOLEMNLY AFFIRMED AT PANAJI ON

THIS 21ST DAY OF NOVEMBER, 2011.

DEPONENT

Identified by me:

Vledson Braganza
Advocate for Petitioners

Solemnly affirmed before me by Shri Jnvan R. Bandekar who is identified by Adv. Vledson Braganza whom I personally know.

Dated this 21st day of November 2011

21.11.11
Section Officer
Small Court of Bombay at Goa
Panaji (Goa)

BAY AT GOA
PANAJI

Authenticated Copy

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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Petitioner

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Fereira, Asst. Solicitor General for respondents No.1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents No. 3 to 5.
Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 17th November, 2011

P.C.:-

An affidavit filed on behalf of respondents No.1 and 2 is taken on record. An affidavit filed on behalf of the petitioners is also taken on record.

2. Mr. Kantak, the learned Advocate General appearing for respondents No.3 to 6 states that the order dated 23/09/3022 which is impugned in this writ petition shall be withdrawn. He further states that upon withdrawal of the said order, respondent No.6 shall pass appropriate orders, within a period of one week. In view of the statement made by the learned Advocate General, Mr. Coelho Pereira, the learned Senior Advocate appearing for the petitioners seeks leave to withdraw the petition. He further seeks liberty to file

appropriate proceedings.

3. In view of the above, the writ petition is allowed to be withdrawn, with liberty as prayed. All contentions of the petitioners in this petition are kept open.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

"Disclaimer Clause : Authenticated copy is not a Certified Copy"

ORDERS ON MCA's in WP633/2011.

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IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 948 OF 2011

IN

WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the applicants.
Mr. C. A. Ferreira, Asst. Solicitor General for respondents No.1 and 2.
Mr. J. Godinho, Advocate for respondent No.6.

Coram:- A. P. LAVANDE &
SMT. R. P. SONDURBALDOTA, JJ.

Date:- 18th October, 2011

P.C.:-

Heard Mr. Coelho Pereira, learned Senior Counsel for the applicants, Mr. Ferreira, learned Asst. Solicitor General for respondents No.1 and 2 and Mr. Godinho, learned Counsel for respondent No.6. None appears on behalf of respondents No.3 to 5.

2. This is an application for amendment of the petition, which has not yet been admitted. According to the applicants, the amendment is necessitated on account of subsequent events.

3. In view of the above, the application is allowed. Since the main petition is fixed tomorrow, the amendment to be carried out forthwith.

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The application stands disposed of.

A. P. LAVANDE, J.

SMT. R. P. SONDURBALDOTA, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 972 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the applicants.
Mr. C. A. Ferreira, Assistant Solicitor General for respondent nos.1 and 2.
Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Additional Government Advocate for respondent nos.3 to 5.
Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 9th November, 2011

P.C.

Heard Mr. Coelho Pereira, learned Senior Counsel for the applicants, Mr. Ferreira, learned Assistant Solicitor General for respondent nos.1 and 2, Mr. Kantak, learned Advocate General for respondent nos.3 to 5 and Mr. Godinho, learned Counsel for respondent no.6.

2. This is an application seeking direction that Writ Petition, which is fixed for admission and consideration of interim relief on 29th November, 2011, be preponed. The learned Counsel for the respondents have no objection.

3. Reply, if any, on behalf of respondent nos.1 and 2 to be filed by Monday i.e. 14th November, 2011. The matter will be taken up on 15th November, 2011.

4. The application stands disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

SMA

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IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI.

Writ Petition No.633 of 2011 & M.C.A. No.978 of 2011

Bandekar Brothers Pvt. Ltd
Through its Director
Mr. Suvarn R. Bandekar
and another .... Petitioners

Versus

Union of India Through
The Secretary,
Ministry of Environment and
Forest and 5 others. ..... Respondents

Mr. C. Coelho Pereira, Senior Advocate with Mr. Veldson Braganza, Advocate for the petitioners.

Mr. C.A. Ferreira, Asst. Solicitor General for respondent nos.1 and 2.
Mr. S.S. Kantak, Advocate General with Mr. A. Kamat, Addl. Government Advocate for respondent nos.3 to 5.
Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A.P. Lavande,
U. V. Bakre, JJ
Date:-15th November, 2011.

P.C:

Mr. Coelho Pereira, learned Senior Counsel appearing for the petitioners submits that the order passed by respondent no.5 and the order passed by respondent no.6 suspending the operations are creating serious prejudice and as such, the matter be taken up today.

2. Mr. Ferreira, learned Assistant Solicitor General appearing for respondent nos.1 and 2 submits that he has received a copy of the affidavit-in-reply of respondent

nos.1 and 2 and he has served copies thereof on the parties to the petition. However, he has not received the original affidavit from Delhi and he will be filing the same in the Court by 16/11/2011. Mr. Ferreira, therefore submits that the matter be taken up on 17/11/2011.

3. This prayer is vehemently opposed by Mr.Coelho Pereira, learned Senior Counsel appearing for the petitioners.

4. Mrs. Alvares, learned counsel has filed application on behalf of Goa Foundation bearing M.C.A no.978/2011 seeking to join the applicant as party respondent in the petition has also filed PIL Writ petition no.27/2011 challenging separate order passed by Respondent no.4 in the present petition and any order passed in the present petition will have a direct bearing on the outcome of the said petition. The said PIL writ petition be taken up along with this writ petition which is fixed on board on 29/11/2011.

5. We are of the considered opinion that the submission made by Mr. Ferreira deserves to be accepted since it is necessary to know the stand taken by respondent no.1 in the matter before any order is passed in the petition. Moreover, any order passed in the present petition will have direct bearing on PIL Writ petition no.27/2011.

6. Accordingly, the writ petition along with the M.C.A. No.978/2011 is fixed for hearing on 17/11/2011. Reply, if any, on behalf of respondent no.1 o be filed by 16/11/2011 and even if the reply is not filed by 16/11/2011, the writ petition and the M.C.A will be taken up for consideration on 17/11/2011.

7. Since the P.I.L writ petition is connected with the present petition, the hearing of said writ petition is pre-poned and fixed on 17/11/2011 along with the present petition.

8. Stand over to 17/11/2011.

A. P. LAVANDE, J,

U. V. BAKRE, J.

Ap/-

IN THE HIGH COURT OF BOMBAY AT GOA

(71)

MISC.CIVIL APPLICATION NO. 978 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

THE GOA FOUNDATION THROUGH ITS SECRETARY, DR. CLAUDE ALVARES., ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Ms. Norma Alvares, Advocate for the applicant.
Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the petitioners.
Mr. C. A. Fereira, Asst. Solicitor General for respondents No.1 and 2.
Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Addl. Govt. Advocate for respondents No. 3 to 5.
Mr. S. S. Kantak, Advocate General with Mr. J. Godinho, Advocate for respondent no.6.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 17th November, 2011

P.C.:-

In view of the disposal of Writ Petition No.633 of 2011, the application stand disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT GOA

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MISC.CIVIL APPLICATION NO. 1022 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. V. Braganza, Advocate for the applicant.

Mr. C. A. Ferreira, Assistant Solicitor General for respondent nos. 1 and 2.

Mr. S. S. Kantak, Advocate General with Mr. A. Kamat, Additional Government Advocate for respondent nos. 3 to 5.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 22nd November, 2011

P.C.

Heard Mr. J. E. Coelho Pereira, learned Senior Advocate for the applicant, Mr. C. A. Ferreira, learned Assistant Solicitor General for respondent nos. 1 and 2 and Mr. S. S. Kantak, learned Advocate General for respondent nos. 3 to 5.

2. By this application, the applicant seeks correction of order dated 17.11.2011. In para 2 at lines 2 and 3 instead of order dated 23.9.2011 which is impugned in this Writ petition shall stand withdrawn, it is mentioned that order dated 23.9.3022 which is

impugned in this Writ petition shall be withdrawn.This is not disputed by Mr. C. A. Ferriera, learned Assistant Solicitor General and Mr. S. S. Kantak, learned Advocate General. Therefore, order dated 17.11.2011 stands modified accordingly.

3. Applicant to act on the duly authenticated copy of this order.

A. P. LAVANDE, J.

U. V. BAKRE, J.

vn

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IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 1032 OF 2011
IN
WRIT PETITION NO. 633 OF 2011

BANDEKAR BROTHERS PRIVATE LIMITED THROUGH ITS MANAGING DIRECTOR MR. SUVARN RAJARAM BANDEKAR AND ANR. ... Applicant

Versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF ENVIRONMENT AND FOREST AND 5 ORS., ... Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson Braganza, Advocate for the applicants.
Mr. C. A. Ferreira, Asst. Solicitor General for respondents No.1 & 2.
Mr. S. S. Kantak, Advocate General with Mr. P. Talaulikar, Addl. Govt. Advocate for respondents No.3 to 5.
Mr. J. Godinho, Advocate for respondent No.6.

Coram:- A. P. LAVANDE & U. V. BAKRE, JJ.

Date:- 30th November, 2011

P.C.:-

Mr. Coelho Pereira, learned Senior Counsel appearing for the applicants has placed on record communication dated 29/11/2011 issued by Goa State Pollution Control Board, to the applicants. In view of the communication, Mr. Coelho Pereira states that the applicants are not pressing the application.

Hence the application is disposed of as not pressed.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT PANAJI.

PIL Writ Petition/04/0212

THE GOA FOUNDATION ... PETITIONERS

Versus

GOA STATE POLLUTION CONTROL BOARD AND OTHERS ... RESPONDENTS

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2

I, Cedric D Souza, aged about 59 years, residing at Vasco Da Gama, Goa, the Dy. Conservator of Forest (Monitoring and Evaluation), having office at Junta House, 18th June Road, Panaji, Goa, do hereby state on solemn oath as under;

1. I say that I am filing this affidavit in view of the order dated 12th June, 2012 dealing with statements made in paragraph 14 of the Petition. I say that this Respondent had passed an Order dated 23/09/2011 cancelling the approval/clearance of the Chief Wildlife Warden issued to the Mining lease of M/s Bandekar Brothers Private Limited. The said M/s Bandekar Brothers filed Writ Petition No. 633 of 2011 challenging the said Order dated 23/09/2011.

2. I say that in PIL Writ Petition No. 27/ 2011, Shri Ravi Horo, working as Conservator of Forest (Conservation) Forest Department, filed an Affidavit dated 11th October, 2011 in the Petition wherein in para 16 and 17 it was stated that the contention of the Petitioners (in PIL WP 27/ 2011) that by virtue of the Honourable Supreme Court's Order dated 1.12.2006 all Environmental Clearances have to be forwarded to Standing Committee of the National Board of Wild Life for seeking no objection before undertaking mining within 10 kms of any protected area is concerned is devoid of merit being based on misinterpretation of the aforesaid order. It was also stated that the perusal of the Order dated 4.12.2006 makes it evident that the direction was to Ministry of Environment and Forest and not to the State Government that the Environment Clearances granted till 4.12.2006 were to be forwarded to the Standing Committee of the National Wild Life Board. It was further stated in the said affidavit that no direction was issued by the Hon'ble Supreme Court that Environmental Clearances granted even after 4.12.2006 were to be referred to the Standing Committee of the National Board of Wild Life. I say that this Affidavit dated 11th October, 2011 was filed

after due consultations and approval of the Government. I say that in the meanwhile, the order dated 23/09/2011 was passed whereby the NOC of the Chief Wild Life Warden was cancelled.

3. I say that when the Writ Petition 633 of 2011 came up for hearing, wherein the order dated 23/09/2011 was challenged, a statement was made by the then Learned Advocate General (Shri. Subodh Kantak) that the order dated 23/09/2011 shall stand withdrawn. I say that the statement made by the Learned Advocate General is binding on the Government and that; accordingly the Goa State Pollution Control Board passed an Order dated 29/11/2011 revoking the directions dated 4/10/2011.

4. I say that letter dated 6/10/2012 issued by the Public Information Officer, Addl. Principle Chief Conservator of Forest, Panaji Goa has merely stated in the reply that till date the order for withdrawing the cancellation of Chief Wildlife Warden clearance issued to M/s Bandekar Bros for their mine under T.C no. 84/52 at Pale Village in Bardez Taluka has not been issued. This information was provided to Dr. Claude Alvares pursuant to his application seeking a copy of the Order of Chief Wildlife Warden withdrawing his cancellation order dated

23/09/2011 in respect of the Wildlife NOC issued to him to the mining lease.

5. I say that the Order dated 23/09/2011 cancelling the NOC granted by the Chief Wildlife Warden stands withdrawn and a formal letter to that effect is being issued.

6. I say that Order dated 22nd November, 2011 read with Order dated 17th November , 2011 clearly states that the Goa State Pollution Control Board shall pass appropriate Orders within a period of one week after the withdrawal of the Order dated 23/09/2011 and that the said Order stood withdrawn on the statement made by the then Learned Advocate General (Shri. Subodh Kantak).

7. I say that whatever stated herein above is partly true to my knowledge and partly based on official records which I believe to be true and correct.

Solemnly affirmed at Panaji

on this 10th day of June, 2012. **DEPONENT**

Identified by me :

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IN THE HIGH COURT OF BOMBAY AT GOA.

Public Interest Litigation Writ Petition No.4 of 2012

Goa Foundation. .... Petitioner

V/s

Goa State Pollution Control Board. .... Respondent

AFFIDAVIT ON BEHALF OF RESPONDENT NO.2

I, Milind V. Karkhanis, aged about 56 years, son of Vaman A. Karkhanis, residing at St. Inez, Panaji, Goa, do hereby on solemn affirmation state and submit as under:-

1. I state that presently I am working as Assistant Conservator of Forest and I am authorized to file this present affidavit.

2. I state that in the course of the hearing held on 22/08/2012, the statement was made by the Ld. Advocate General on behalf of Respondents No.1 to 3 that copy of the Order passed in terms of statement made on 24/07/2012 would be placed on record.

3. I state that I am filing this Affidavit in order to place on record a copy of the Order dated 21/08/2012.

Annexed hereto and marked as ***Exhibit "A"*** *is the copy of the Order dated 21/08/2012.*

4. I state that whatever stated hereinabove is true to my knowledge.

Solemnly affirmed at Panaji, Goa

on this 4th day of September, 2012. **Deponent**

Exhibit - A

(8)

GOVERNMENT OF GOA
Office of the Addl. Principal Chief Conservator of Forests
Forest Department
Panaji, Pin 403 001
Ph:-0832-2224747, 2224748 Fax: - 0832-2224748.

No.6-13-(172)-2012-FD/2745
Dated: 21/08/2012.

To,
The Director,
Bandekar Brothers Private Ltd,
Regd Off. Suvarn Bandekar Building,
P. O. Box No.11
Vasco-da-Gama, Goa.

Sub: - Revocation of letter No.6-13-(172)-97-FD/4004 dated 23/09/2011.

Sir,

With reference to the letter issued under No.6-13-(172)-97-FD/4004 dated 23/09/2011, the said letter stands withdrawn restoring the clearance of the Chief Wildlife Warden, Government of Goa, granted by letter No. 6-13-(172)-97-FD/161 dated 11/04/2011 with immediate effect, on the instructions of the State Government contained in the letter No. 10/587(P)/09-10/197 dated 30/05/2012.

This issues with the approval of the Chief Wildlife Warden.

Yours faithfully,

Cedric D'Souza
21/08/2012
(Cedric S. D'Souza)
Dy. Conservator of Forests,
Monitoring & Evaluation

Copy to:-

1. The Conservator of Forests, Wildlife & Eco-Tourism/Conservation, Junta House, Panaji-Goa.
2. The Dy. Conservator of Forests, Wildlife & Eco-Tourism (North), Panaji-Goa.
3. The Dy. Conservator of Forests, North Goa Division, Ponda-Goa.
4. The Director of Mines, Government of Goa, Panaji-Goa.
5. The Addl. Director (S), Ministry of Environment & Forests, Government of India, Parvaryan Bhavan, C.G.O. Complex, Lodhi Road, New Delhi.

IN THE HIGH COURT OF BOMBAY AT GOA

PIL W. P. NO. 4 / 2012

The Goa Foundation)... Applicant/Petitioner

v/s

Goa State Pollution Control Board & ors)... Respondents

AFFIDAVIT OF PETITIONER ORGANISATION

I, Dr Claude Alvares, Secretary, petitioner organization above named, do solemnly state on oath as under

1. I am filing this affidavit to bring on record letter dated 13.9.2012 issued by the Principal Secretary (Forest) to the Addt. Pr. CCF, keeping in abeyance his original order dated 30.5.2012 which directed the Addl Pr. CCF to grant NOC without referring the case to the National Board of Wildlife. Pursuant to this letter, the Chief Wildlife Warden has withdrawn his revocation order dated 21-8-2012.

2. The consents to operate issued to the mining company under the Air and Water Acts by the Pollution Control Board have expired on 31st July 2012 like several others and the consents have not been renewed by the Board. No mining is permitted in absence of consent orders.

3. In view of the above, since final relief sought for is met, I have no objection therefore to disposal of the above PIL Writ Petition.

Solemnly affirmed at Panaji
this the _____ day of September, 2012 Deponent

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GOVERNMENT OF GOA
SECRETARIAT, PORVORIM
GOA – 403 521

R.K. VERMA, IAS
PRINCIPAL SECRETARY
FOREST

Pl. ask DCF (H&E) to
act accordingly. He
may also discuss.

No. 10/587/(P)/09-10 Dated: 13th September, 2012.

14912

To

The Additional Pr. Chief Conservator of
Forest
Government of Goa
Panaji Goa.

DCF (P&E) As discussed with
APCCF, copy marked to
DCF (H&E) & CF (C) for
kind info & n/a pl.
05.

Sir,

Please refer the letter No. 10/587/(P)/09-10 dated 30.5.2012 directing some action regarding issue of NOC without referring the same to National Board of Wild Life (NBWL) in view of the stand taken by the Government after obtaining legal advice.

In light of the observations contained in the Report of Shah Commission, it has been decided by the Government that the directions issued are kept in abeyance till further order. The instructions must be complied strictly.

Yours faithfully,

(R.K. Verma)
Principal Secretary (Forest)